



Journal of the Senate

Number 10—Special Session H

Tuesday, June 23, 1992

CALL TO ORDER

The Senate was called to order by the President at 6:06 p.m. A quorum present—38:

| | | | |
|-----------------|-------------|-------------|-----------|
| Madam President | Davis | Johnson | Scott |
| Bankhead | Diaz-Balart | Kirkpatrick | Souto |
| Beard | Dudley | Kiser | Thomas |
| Bruner | Forman | Kurth | Walker |
| Burt | Gardner | Langley | Weinstein |
| Casas | Girardeau | Malchon | Weinstock |
| Childers | Grant | McKay | Wexler |
| Crenshaw | Grizzle | Meek | Yancey |
| Crotty | Jenne | Myers | |
| Dantzler | Jennings | Plummer | |

Excused: Senators Gordon and Thurman

PRAYER

The following prayer was offered by James C. Vaughn, Jr., Reading Clerk:

Sometimes, Lord, we are like Job, who saw himself covered by dark, thick clouds; and sometimes we are like Peter, crying out in fear because of the raging storm all around us.

Sometimes, Lord, the thick darkness is within us, the darkness of depression, the darkness of doubt, the darkness of worry and the darkness of fear.

Heavenly Father, speak to us with your strong, yet gentle voice. Let us hear your word that brings calm and peace. Let us hear your word that assures us that you are here with us. Let us hear your word that convinces us that in the end your divine power will prevail. Amen.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thomas, by two-thirds vote **CS for HB 325-H** was withdrawn from the Committees on Finance, Taxation and Claims; and Appropriations.

MOTIONS

On motions by Senator Thomas, by two-thirds vote the following bills were placed on the Special Order Calendar for this day: **CS for SB 268-H**, **CS for HB 325-H**, **HB 21-H**, **CS for HB 57-H**, **HB 145-H** and **SJR 2-H**.

On motion by Senator Thomas, provisions of Rule 7.1 relating to two-hour notice of amendments to be considered by the Senate were waived.

SPECIAL ORDER

Consideration of **CS for SB 100-H** was deferred.

SB 26-H—A bill to be entitled An act relating to taxation; amending s. 212.04, F.S.; providing an exemption from certain taxes for museums and historic buildings owned by any political subdivision of the state; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Dudley and adopted:

Amendment 1—On page 2, line 1, strike "chapter" and insert: section

On motion by Senator Dudley, by two-thirds vote **SB 26-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—1

CS for SB 66-H—A bill to be entitled An act relating to corrections; amending s. 20.315, F.S.; transferring legal services in the Department of Corrections from the Office of Management and Budget to the secretary; renaming the Community Services Program Office the Probation and Parole Program Office; transferring program evaluation responsibilities from the Office of Management and Budget to the Assistant Secretary for Programs; transferring staff development from the Office of Programs to the Office of Management and Budget; deleting authorization for the Governor to appoint an advisory council to the program offices; amending s. 922.10, F.S.; exempting information identifying an executioner from public records requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; amending s. 944.17, F.S.; requiring agencies to release records relating to inmate custody classification to the Department of Corrections under certain circumstances; amending s. 944.702, F.S.; revising intent relating to the Transition Assistance Program Act; amending s. 944.703, F.S.; amending the time period within which the department must confirm certain information; amending s. 944.704, F.S.; deleting the title of transition assistance coordinator and specifying the duties of staff who provide such assistance; amending s. 944.705, F.S.; deleting requirements relating to the release orientation program; amending s. 944.706, F.S.; eliminating provisions of basic release assistance; amending s. 944.707, F.S.; eliminating certain postrelease services; amending s. 944.277, F.S.; expanding exceptions to eligibility for grants of provisional credits and authorizing use of certain information in determining eligibility for provisional credits; requiring the Department of Corrections to deliver a report to the Legislature; specifying what is to be considered in the report; authorizing the department to use sole-source contracted services; amending s. 947.1405, F.S.; requiring maximum level and length of supervision of offenders convicted of certain offenses; amending s. 947.146, F.S.; limiting control release to in-state inmates; providing requirements for the Control Release Authority in determining eligibility for control release; requiring certain recommendations; requiring a review process for certain inmates; creating s. 947.149, F.S.; requiring a conditional medical release program for inmates determined to be permanently incapacitated or terminally ill; providing procedure; providing rulemaking authority; requiring a study by the Department of Corrections concerning the treatment of adult inmates with chronic health care needs; creating s. 944.471, F.S.; providing a short title; creating s. 944.472, F.S.; providing legislative findings and purposes; creating s. 944.473, F.S.; providing for the establishment of a program for random drug and alcohol testing for inmates in the correctional system; requiring the department to adopt rules; providing for substance abuse treatment programs; providing reporting requirements; amending s. 242.68, F.S.; expanding the contract monitoring functions of the Board of Correctional Education; expanding and setting priorities for the goals of correctional education; eliminating the appointment process and designation of the education program manager; expanding the responsibility of the Director of Correctional Education for the solicitation of entitlement funds and private donations; authorizing the Board of Correctional Education to contract with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing the contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; authorizing school districts and community colleges to provide education services to inmates under the federal Pell Grant program;

providing for in-kind contributions as partial payment for inmate education; requiring the Correctional Education School Authority to adopt rules; requiring the authority to award contracts; providing requirements for legislative appropriations for correctional education; amending s. 246.203, F.S.; revising the definition of the term "school" for purposes of ss. 246.201-246.231, F.S.; amending s. 246.213, F.S.; requiring the State Board of Education to adopt certain licensing requirements for independent postsecondary schools that operate within state correctional facilities; requiring the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to make certain recommendations to the Board of Correctional Education; amending s. 246.215, F.S.; providing licensing requirements for independent postsecondary schools that operate within state correctional facilities; amending s. 246.228, F.S.; authorizing the Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to take certain disciplinary actions against schools that violate rules adopted by the Board of Correctional Education; amending s. 246.229, F.S.; authorizing the Department of Legal Affairs and the state attorney to enforce rules adopted by the Board of Correctional Education; amending s. 246.231, F.S.; providing penalties; amending s. 775.16, F.S.; disqualifying persons convicted of a drug offense under the laws of other states or countries, if such offense would be a felony under ch. 893, F.S., from applying for state employment, licenses, and other benefits unless specified conditions are met; creating s. 766.317, F.S., relating to medical malpractice; providing that ch. 766, F.S., does not apply to prisoners in state, county, or municipal detention facilities; amending s. 794.011, F.S.; prohibiting grants of basic gain-time to persons convicted of sexual battery; designating s. 794.011(7), F.S.; as the Junny Rios-Martinez, Jr. Act of 1992, amending s. 921.187, F.S.; authorizing the court to require an offender on community control, probation, or probation following incarceration to make a good-faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; amending s. 948.03, F.S.; requiring an offender, as a condition of his probation or community control, to make a good-faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; providing legislative intent and purpose; providing guidelines for regulating inmate behavior at state correctional institutions; requiring the Department of Corrections to adopt certain rules; requiring the department to report to the Legislature; requiring the Department of Health and Rehabilitative Services to review and recommend services for certain juvenile offenders; requiring a report; amending s. 39.052, F.S.; providing for arraignment at an adjudicatory hearing; amending s. 39.044, F.S.; amending detention criteria, and reenacting ss. 39.037(1), 39.042(3)(b), 39.049(5), 39.064(1), 39.402(4), F.S., relating to taking a child into custody, use of detention, process and service, detention of escaped child, and placement in a shelter, to incorporate said amendment in references thereto; amending s. 39.038, F.S.; requiring the child to join in the release agreement; amending s. 39.047, F.S.; amending the responsibilities of the case manager; creating s. 39.0445, F.S.; providing for placement of juvenile domestic violence offenders; amending s. 39.054, F.S.; revising powers of disposition; providing for the conversion of certain orders of restitution into judgment liens; amending ss. 960.001, 960.002, 960.003, 960.01, 960.02, 960.03, 960.07, 960.17, 960.20, 960.28, F.S., relating to victim assistance, to provide that victims and witnesses in juvenile delinquency cases have the same rights as those afforded to victims and witnesses in adult criminal cases; providing for the removal of the disabilities of nonage for certain minors; providing for a separate program for young offenders; creating s. 39.0215, F.S.; providing for administering county and municipal juvenile delinquency programs and facilities, including secure detention facilities; providing for transfers of children; providing for payment of children performing services in work programs; requiring that county and municipal programs comport with state law and department rules and coordinate with other services; requiring quarterly inspections and evaluations by the department; requiring a monitoring fee; ensuring the training of personnel; providing enforcement powers to the Department of Health and Rehabilitative Services; amending s. 39.057, F.S.; authorizing county and municipal boot camps; providing for enforcement, including injunctive relief and proceedings to terminate facility operation; providing for a study of prison industries by a committee of the Senate; amending s. 39.061, F.S.; eliminating reference to restrictiveness levels in the definition of escape; amending s. 39.01, F.S.; specifying the programs by restrictiveness and risk levels; amending s. 944.026, F.S.; revising requirements for community-based residential drug treatment facilities; providing for commitment of certain drug offenders to such facilities; amending s. 946.504, F.S.; providing for a certain portion of the profits of the non-profit corporation established under part II, ch. 946, F.S., to be deposited into the Community Corrections Construction Trust Fund; amending s.

948.001, F.S.; revising certain caseload restrictions for supervision of drug offenders; amending s. 948.09, F.S.; providing for deposit and use of funds collected from felony offenders by the Department of Corrections; amending s. 948.51, F.S.; requiring community corrections programs and plans to include provisions for public safety; amending s. 950.002, F.S.; deleting a requirement that certain beds in a county work camp be reserved for offenders who are sentenced to a term of incarceration; providing for two or more counties to provide for the operation of work camps; providing for the operation of county work camps to be funded from the Community Corrections Operating Trust Fund; amending s. 951.26, F.S.; redesignating the county correctional planning committees as county public safety coordinating councils; requiring meetings and records of the councils to be open to the public; repealing s. 945.25(4), F.S., relating to the rulemaking authority of the department with respect to the privacy or privilege of certain information; providing effective dates.

—was read the second time by title.

Four amendments were adopted to **CS for SB 66-H** to conform the bill to **CS for HB's 197-H, 19-H and 131-H**.

Pending further consideration of **CS for SB 66-H** as amended, on motions by Senator Dantzler, by two-thirds vote **CS for HB's 197-H, 19-H and 131-H** was withdrawn from the Committees on Corrections, Probation and Parole; Governmental Operations; Community Affairs; and Appropriations.

On motion by Senator Dantzler—

CS for HB's 197-H, 19-H and 131-H—A bill to be entitled An act relating to corrections; amending s. 944.275, F.S.; prohibiting grants of basic or incentive gain-time to offenders convicted under chapter 794, F.S.; amending s. 775.084, F.S., relating to habitual and habitual violent felony offenders; establishing ineligibility of offenders convicted under chapter 794, F.S., for basic or incentive gain-time; amending s. 20.315, F.S.; transferring legal services in the Department of Corrections from the Office of Management and Budget to the secretary; renaming the Community Services Program Office the Probation and Parole Program Office; transferring program evaluation responsibilities from the Office of Management and Budget to the Assistant Secretary for Programs; transferring staff development from the Office of Programs to the Office of Management and Budget; repealing an obsolete provision; amending s. 944.17, F.S.; requiring agencies to release records relating to inmate custody classification to the Department of Corrections under certain circumstances; amending s. 922.10, F.S.; relating to Department of Corrections records identifying executioners; repealing the department's authority to adopt rules regulating privacy or privilege of information contained in such records; repealing s. 945.25(4), F.S., relating to departmental rulemaking authority with respect to privacy of information; amending s. 944.702, F.S.; revising intent relating to the Transition Assistance Program Act; amending s. 944.703, F.S.; revising the time period within which the department must confirm certain information; amending s. 944.704, F.S.; deleting the title of transition assistance coordinator and specifying the duties of staff who provide such assistance; amending s. 944.705, F.S.; deleting requirements relating to the release orientation program; amending s. 944.706, F.S.; eliminating certain provisions relating to basic release assistance; amending s. 944.707, F.S.; eliminating certain postrelease services; amending s. 944.277, F.S.; expanding exceptions to eligibility for grants of provisional credits and authorizing use of certain information in determining eligibility for provisional credits; requiring the Department of Corrections to deliver a report to the Legislature; specifying what is to be considered in the report; authorizing the department to use sole-source contracted services; amending s. 947.1405, F.S.; requiring maximum level and length of supervision of offenders convicted of certain offenses; amending s. 947.146, F.S.; limiting control release to in-state inmates; requiring certain recommendations for advancement or extension; requiring a review process for certain inmates; creating s. 947.149, F.S.; requiring a conditional medical release program for inmates determined to be permanently incapacitated or terminally ill; providing rulemaking authority; requiring a study by the Department of Corrections concerning older inmates and long-term adult inmates with extensive chronic health care needs; creating s. 944.471, F.S.; providing a short title; creating s. 944.472, F.S.; providing legislative findings and purposes; creating s. 944.473, F.S.; providing for the establishment of a program for random drug and alcohol testing for inmates in the correctional system; authorizing the department to adopt rules; providing for substance abuse treatment programs for inmates testing positive, if available; providing reporting requirements; amending s. 242.68, F.S.; authorizing the Board of Correctional Education to contract

with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; authorizing school districts and community colleges who provide education services through a federal Pell Grant program to inmate students to charge the full educational cost; authorizing in-kind contributions as partial payment; amending s. 246.203, F.S.; revising the definition of the term "school" for purposes of ss. 246.201-246.231, F.S.; amending s. 246.213, F.S.; requiring the State Board of Education to adopt certain licensing requirements for independent postsecondary schools that operate within state correctional facilities; requiring the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to make certain recommendations to the Board of Correctional Education; amending s. 246.215, F.S.; providing licensing requirements for independent postsecondary schools that operate within state correctional facilities; amending s. 246.228, F.S.; authorizing the Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to take certain disciplinary actions against schools that violate rules adopted by the Board of Correctional Education; amending s. 246.229, F.S.; authorizing the Department of Legal Affairs and the state attorney to enforce rules adopted by the Board of Correctional Education; amending s. 246.231, F.S.; providing penalties; amending s. 775.16, F.S.; disqualifying persons convicted of a drug offense under the laws of other states or countries, if such offense would be a felony under chapter 893, from applying for state employment, licenses, and other benefits unless specified conditions are met; amending s. 794.011, F.S.; creating the "Junny Rios Martinez, Jr., Act of 1992", prohibiting eligibility for basic gain-time for persons convicted of sexual battery against victims under 18 years of age; amending s. 921.187, F.S.; authorizing the court to require an offender on community control, probation, or probation following incarceration to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; amending s. 948.03, F.S.; requiring an offender, as a condition of his probation or community control, to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; providing a definition; creating ss. 945.71-945.74, F.S.; providing legislative intent and purpose as to inmate training programs; providing eligibility and screening of inmates; providing for program operation; requiring the department to adopt certain rules; requiring the department to report to the Legislature; creating s. 766.317, F.S., relating to applicability of medical malpractice provisions to prisoners; providing that the medical negligence provisions of ch. 766, F.S., do not apply to prisoners in state, county, or municipal detention facilities; providing that ss. 766.303-766.316, F.S., which provide the no-fault remedy for infants who meet the definition under the Florida Birth-Related Neurological Injury Compensation Plan, are applicable; creating s. 946.5026, F.S.; extending sovereign immunity to the corporation established pursuant to s. 946.504(1); providing for a study of prison industries by a committee of the House of Representatives; amending s. 944.026, F.S.; revising requirements for community-based residential drug treatment facilities; authorizing commitment of certain drug offenders to such facilities; amending s. 948.001, F.S.; revising certain caseload restrictions for supervision of drug offenders; amending s. 948.51, F.S.; requiring community corrections programs and plans to include provisions for public safety; revising county eligibility provisions and departmental responsibility; expanding purposes of community corrections funds; amending s. 950.002, F.S.; authorizing nonsentenced and pretrial detainees to be housed in county work camps; authorizing two or more counties to provide for the operation of work camps; amending s. 951.26, F.S.; redesignating the county correctional planning committees as county public safety coordinating councils; creating the Community Corrections Operating Trust Fund for purposes of funding the operating expenses of county work camps; requiring meetings and records of the councils to be open to the public; amending s. 921.187, F.S.; conforming terminology; providing effective dates.

—a companion measure, was substituted for CS for SB 66-H and read the second time by title.

Senator Burt moved the following amendment:

Amendment 1 (with Title Amendment)—On page 34, line 15 through page 38, line 14, strike all of said lines and insert:

Section 22. Section 242.68, Florida Statutes, as amended by section 100 of chapter 92-279, Laws of Florida, is amended to read:

242.68 Education for state prisoners; Correctional Education School Authority; Board of Correctional Education.—

(1) There is hereby created a Correctional Education School Authority attached to the Department of Corrections which shall be composed of the educational facilities of all institutions operated by the Department of Corrections and shall be supervised by a Board of Correctional Education. Library services and facilities, and maintenance of facilities, that house the education programs shall continue to be assigned to the Department of Corrections, which shall also be responsible, in consultation with the Correctional Education School Authority, for renovation and new construction of correctional education facilities. All ~~noncontracted personnel education-related positions, including central-office administrative positions,~~ shall be assigned to the school authority.

(2)(a) There is hereby established a Board of Correctional Education attached to the Department of Corrections, which shall be composed of nine voting members. Membership shall be as follows:

1. Four voting ex officio members, who shall be the Commissioner of Education or his designee, the Secretary of Corrections or his designee, the Secretary of Labor and Employment Security or his designee, and the President of Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) or his designee.

2. Five voting members appointed by the Governor and confirmed by the Senate in regular session as follows: one member who is trained in vocational education and training; one member who is trained in adult basic education; one member who is trained in special education; one member who has business experience in the private sector; and one member who is a former inmate of the Florida prison system and who has completed requirements for a general educational development certificate or vocational certificate. The Commissioner of Education and the Secretary of Corrections may submit recommendations for appointment to the Governor for his consideration. The Governor may remove any member for cause and shall fill vacancies, as appropriate.

(b) Members of the board shall serve without compensation but shall be reimbursed for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061.

(c) Members shall be appointed for terms of 4 years each, except for initial appointments and whenever a vacancy occurs other than by expiration of a term. Initial terms shall be as follows: two members shall be appointed for 2-year terms and three members shall be appointed for 4-year terms. Whenever a vacancy occurs other than by expiration, the Governor shall appoint a member for the remainder of that term.

(d) No appointed member shall serve more than two consecutive 4-year terms.

(e) Members of the board shall elect a chairman annually.

(f) The board is vested with the authority and responsibility to *contract for services and manage* and operate the correctional education program, as provided by law. The Department of Corrections and the Department of Education shall cooperate and render assistance as may be necessary to enable the board to discharge its responsibilities. Resources of the departments may be used to support the operation of the education programs as agreed by the departments and the board. The Correctional Education School Authority shall ~~monitor operate~~ its education programs *under contract and operate its education programs* in accordance with applicable provisions of the Florida school laws and rules of the State Board of Education except as expressly exempted by the State Board of Education.

(g) The responsibilities of the board shall be to:

1. Adopt and enforce all necessary rules *and contracts* for the management and operation of education programs within the Department of Corrections. In adopting rules, the board shall consider the Department of Corrections operating procedures and goals of correctional education. Rules or *contract provisions* adopted by the board ~~must~~ not conflict with Department of Corrections rules relating to security or any applicable rules adopted by the Department of Education.

2. Develop written cooperative agreements with the Department of Corrections outlining the duties and responsibilities of the school authority, ~~and its contract providers, and its staff and Department of Corrections institutional personnel.~~

3. Develop guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the Department of Corrections. The information collected shall include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

4. Develop guidelines, in cooperation with the Department of Corrections, for identifying which inmates would most likely benefit from correctional education. The guidelines shall be based on the inmate's academic and vocational needs, the inmate's level of interest, and the length of time the inmate is expected to remain in prison.

5. Develop guidelines, in cooperation with the Department of Corrections, that assure that inmates who are identified as likely to benefit from correctional education are assigned to facilities that offer correctional education courses.

6. Develop guidelines for the *contract providers* and school authority staff concerning the behavioral control of inmates while in education programs and the reporting of behavioral problems.

7. In cooperation with the Department of Education, pursuant to s. 229.565, monitor and assess all inmate education program services and report the results of such evaluation in the board's annual report of its activities.

8. Establish and adopt criteria to annually evaluate the Director of Correctional Education and set the compensation and salary of the director.

9. Adopt rules governing the compensation and salary of teachers and other education personnel.

10. Visit and inspect schools at reasonably frequent intervals.

11. Approve education programs of the appropriate levels and types in the correctional institutions and adopt rules *and contract provisions* for the admission of inmate students thereto.

12. Enter into *contracts and agreements* with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out its duties and responsibilities and ensure that agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards. Agreements and contracts for instructional services shall expressly prescribe the qualifications of and the board's expectations for instructors and the educational objectives to be met. All tangible personal property purchased with state funds is the property of the state and is subject to chapter 273.

13. Review and approve the budget request for the correctional education program. The approved budget shall be forwarded to the Department of Corrections for inclusion in the departmental budget pursuant to s. 20.315.

14. Review and approve the 5-year comprehensive plan for correctional education.

15. Review and approve goals and objectives relating to all phases of the correctional education program.

16. Report the board's annual activities to the Secretary of Corrections, the Commissioner of Education, the Governor, and the Legislature.

17. Develop and maintain complete and reliable statistics on the number of general educational development (GED) certificates and vocational certificates issued by each institution in each skill area; the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses. The compiled statistics shall be summarized and analyzed in the annual report of correctional education activities required by subparagraph 16.

18. Develop a written procedure for selecting programs to add to or delete from the vocational curriculum. The procedure shall include a labor market analysis which demonstrates the projected demand for certain occupations and the projected supply of potential employees. In conducting these analyses, the board shall evaluate the feasibility of adding vocational education programs which have been identified by the Department of Labor and Employment Security or a regional coordinating council as being in undersupply in this state.

19. Ensure that correctional education programs comply with the policies set by the board and with public policies and goals and objectives of the state, which include, in the following order of priority:

a. *Providing every disabled inmate under the age of 22 access to special education programs.*

b.a. Providing every inmate who has an expectation of release from custody within 5 years and whose length of time in prison is sufficient for educational programming with the opportunity to achieve functional literacy, specifically the ability to read and write the English language and the ability to perform routine mathematical functions prior to his release or expiration of his sentence.

c.b. Providing every inmate who has an expectation of release from custody within 5 years and whose length of time in prison is sufficient for educational programming, and who has demonstrated the intellectual capacity to benefit therefrom, with the opportunity to obtain the equivalent of a public high school education. Inmates who wish to receive a standard high school diploma shall be required to meet the graduation requirements provided for in ss. 232.246 and 232.247. The highest priority in achieving this goal shall be focused on those institutions housing youthful offenders as defined in chapter 958.

d.e. Ensuring that every inmate who has an expectation of release from custody within 5 years and whose length of time in prison is sufficient for educational programming be released possessing at least entry-level marketable vocational skills in one or more occupational fields for which there is a demonstrable demand in the economy of this state.

e.d. Ensuring that every inmate be released possessing life management skills which will allow him to function successfully in a free society.

f.e. Providing that inmates who demonstrate college-level aptitudes be provided the opportunity to participate in college-level academic programs which may be offered within correctional facilities. Associated costs shall be borne by the inmate.

20. Ensure, in cooperation with the Department of Corrections, that every inmate who has 2 years or more remaining to serve on his sentence at the time that he is received at an institution and who lacks basic and functional literacy skills as defined in s. 228.0713 attends not fewer than 150 hours of sequential instruction in a correctional adult basic education program. The basic and functional literacy level of an inmate shall be determined by the average composite test score obtained on a test approved for this purpose by the State Board of Education.

a. Upon completion of the 150 hours of instruction, the inmate shall be retested and, if a composite test score of functional literacy is not attained, the authority is authorized to require the inmate to remain in the instructional program.

b. Highest priority of inmate participation shall be focused on youthful offenders and those inmates nearing release from the correctional system.

c. An inmate shall be required to attend the 150 hours of adult basic education instruction unless such inmate:

(I) Is serving a life sentence or is under sentence of death.

(II) Is specifically exempted for security or health reasons.

(III) Is housed at a community correctional center, road prison, work camp, or vocational center.

(IV) Attains a functional literacy level after attendance in fewer than 150 hours of adult basic education instruction.

(V) Is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.

d. The Correctional Education School Authority shall provide classes to accommodate those inmates assigned to correctional or public work programs after normal working hours.

e. If an inmate attends and actively participates in the 150 hours of instruction, the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of up to 6 additional days of incentive gain-time, which must be credited and applied as provided by law. Active participation means, at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

21. Recommend to the Department of Corrections the award of additional incentive gain-time for inmates who receive a general educational development certificate or vocational certificate *from a vocational program approved by the Board of Correctional Education.*

(3) The Board of Correctional Education is created as a body corporate with all powers of a body corporate for all the purposes created by, or that may exist under, the provisions of this chapter or laws amendatory hereof and shall:

- (a) Have a corporate seal.
- (b) Employ personnel *and* ~~or~~ contract with education providers or other authorized entities or agents ~~as may be necessary in its judgment and may fix their compensation.~~
- (c) Have power to contract and be contracted with, to sue and be sued, and to plead and be impleaded in all courts of law and equity.
- (d) Receive donations.
- (e) Have final rulemaking authority.

(4) There is hereby established the position of Director of Correctional Education who shall be appointed by the board and shall serve at the discretion of the board. The director shall:

- (a) Supervise the administration of the school authority.
- (b) Develop standardized correctional education curricula which shall be in accordance with Department of Education standards.
- (c) Ensure that correctional education programs provide minimum performance standards, basic functional literacy skills, and marketable vocational skills which are in accordance with established Department of Education standards.
- (d) In cooperation with the Department of Education, pursuant to s. 229.565, develop and maintain a procedure to evaluate the effectiveness of correctional education programs, to include criteria similar to those utilized by the Department of Education.

~~(e) In concurrence with the institution superintendent, recommend the institution education program manager, who shall be the chief education administrator responsible for the daily operation and administration of the institution educational program, to the board for appointment. After consultation with the institution education program manager and the institution superintendent, Approve all contracts and staff responsible for providing education programs.~~

(f) Ensure that all education staff are certified in accordance with the Department of Education standards.

(g) Develop a compensation and classification plan for correctional educators which is competitive with school district salaries and includes a step pay plan. The director shall administer the compensation and classification plan for instructional personnel within the rules and policies established by the board, subject only to the approval of the State Board of Education. The director shall administer the compensation and classification plan for administrative and noninstructional personnel within the rules and policies established by the board, subject only to the approval of the Department of Management Services.

(h) Develop a procedure for maintaining a list of substitute teachers so that students will not be temporarily displaced ~~if in the event~~ a regular instructor is absent for any reason. Institution education program managers shall maintain an active substitute list at all times.

(i) Develop a mechanism to test all offenders committed to the custody of the Department of Corrections, unless said offenders are specifically excluded from the testing requirement by board policy. The test shall be in accordance with acceptable Department of Education testing standards.

(j) Annually update the 5-year comprehensive plan for correctional education. The plan shall require the director to:

- 1. Work with PRIDE to develop training programs for offenders.
- 2. Develop measurable objectives.
- 3. Develop quality control mechanisms.

4. Interface academic education and vocational training with participation in prison industries programs.

(k) Develop goals and objectives relating to all phases of the correctional education program.

(l) Develop a staffing and funding formula for correctional education. The formula shall include differential funding levels for various types of programs, shall be based on the number of full-time equivalent students, shall be based on information obtained as a result of unscheduled attendance counts taken by an independent source once per quarter, and shall provide the basis for the legislative budget request. For purposes of this section, a full-time equivalent student shall be equal to a minimum of 1050 hours of instruction per calendar year, and each course of instruction shall be equal to a minimum of 150 hours of instruction per calendar year. To be eligible to receive credit for the completion of a course required for the receipt of a standard high school diploma or its equivalent, an inmate must be in attendance for 135 hours of instruction which comprise a course. The funding formula shall include the procedure to document daily attendance and shall require that attendance records be retained for audit purposes. Funds generated by the formula per full-time equivalent student shall not exceed the level of state funding per full-time equivalent student generated through the Florida Education Finance Program or Florida Community College Program Fund for students enrolled in comparable education programs provided by public school districts and community colleges. Funds appropriated for education shall be used solely for that purpose and shall not be transferred to any other budget entity for a purpose other than education.

(m) Prepare the legislative budget request for the entire correctional education program and submit it to the Board of Correctional Education. The director shall be responsible for all expenditures pursuant to appropriations.

~~(n) Apply for and Maintain procedures to secure the maximum amount of appropriate entitlement funds from federal and state grant sources and private donations to supplement the annual legislative appropriation. These funds shall be used utilized expressly for correctional education.~~

(o) Be responsible, along with the Board of Correctional Education, for all academic education and vocational training programs.

(p) Specify which educational facilities shall offer vocational training and which programs shall be available. Criteria for making such determinations shall be in accordance with accepted Department of Education standards. Programs not meeting minimum Department of Education standards shall not be offered.

(q) Ensure that vocational training programs complement existing PRIDE programs whenever possible. Such vocational training programs shall be in accordance with standards established by the Department of Education.

(r) In conjunction with the Department of Corrections, determine conditions under which an inmate may be removed from an education program or the classroom. Department of Corrections managers are prohibited from taking inmates out of education programs or classrooms unless such conditions exist.

(s) Assess and identify, within 60 days of admission at the receiving facility, inmates who have special education needs and develop a plan whereby those special needs will be addressed. Monthly statistics shall be collected on the number of inmates who are under 21 years of age and in need of special education, and such statistics shall be reported to the Department of Education.

(5) The Correctional Education School Authority and the Board of Correctional Education are subject to the provisions of chapter 120, except that curricula established pursuant to this section shall not be a rule.

(6) Educational services may be contracted for to provide every inmate with the opportunity to: achieve functional literacy; develop marketable entry-level vocational skills; or develop abilities to live in a law-abiding and democratic society. The contract must be with a school district, community college, or licensed accredited private postsecondary educational institution. Contracts for these services must show cost estimates; course titles; course descriptions; number of inmate students to be served; total instructional hours per week per course; number of full-time equivalent students per course; full-time equivalent unit cost; descrip-

tion, quantity, and cost of miscellaneous goods or services; and total cost of services with total full-time equivalent students by program. The contract must name the correctional institution and the educational provider. ~~No contract shall be made unless the positions specified in the contract cannot be filled by career service instructors.~~

(a) The educational provider shall agree in the contract to:

1. Designate a liaison person.
2. Provide an educational package that includes instruction by qualified instructors having mastery of the courses or skills being taught.
3. Arrange for qualified substitutes for absent instructors.
4. Require instructors to assume instructional and supervisory responsibilities for inmates in their classes.
5. Provide the ~~authority correctional institution's education program manager~~ with reports on inmate progress and performance.
6. Coordinate teaching schedules that take into consideration the institution's inmate schedule.
7. Comply with Department of Corrections and Correctional Education School Authority written rules and reasonable directives, and local policies of the institution, regarding security and safety.
8. Not discriminate against student inmates because of race, color, religion, sex, or national origin.
9. Submit education reports provided for in the contract.

(b) The Correctional Education School Authority and correctional institution shall agree in the contract to:

1. ~~Provide an education program manager and a secretary to coordinate the educational programs with the educational provider.~~
- 1.2. Provide a sufficient number of properly selected eligible students for membership in each course.
- 2.3. Provide institutional orientation for educational provider staff.
- 3.4. Supply all classroom and shop laboratory facilities and standard utilities, including water, lights, phones, heat, and air conditioning.
- 4.5. Provide the normal configuration of audio-visual equipment, as available, and incidentals such as chalk, erasers, photocopying services, student paper, and pencils.
- 5.6. Provide janitorial and maintenance services.
- 6.7. Provide for the safety of all instructors.
- 7.8. Provide adequate library services and clerical support.
- 8.9. Provide staff support and recordkeeping.

(c) The parties shall agree on other supplies, services, consumables, laboratory materials, and textbooks as necessary. Both parties shall agree that the ~~authority education program manager~~ is responsible for coordination of the education program and shall participate in selecting and evaluating instructional personnel sent in to serve the institutions and collaborate in developing operational procedures for efficient management of the education programs. The contract must be signed by the Director of Correctional Education and the superintendent of the correctional institution or his designee; the college president or school superintendent, as applicable, or his designee; ~~the education program manager;~~ and the educational provider's dean or director.

(7)(a) *The Board of Correctional Education may enter into contracts with accredited or licensed public or private postsecondary educational institutions to provide educational services, funded from federal grants, within correctional facilities in the state correctional system. An institution may not provide onsite educational services to inmates without a written contract with the board. The term of the contract may not exceed 1 year, but the contract may be renewed one or more times.*

(b) *Any private postsecondary educational institution that operates under a contract with the Board of Correctional Education shall be licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.*

(c) *Each instructor shall meet minimum qualifications established by the Board of Correctional Education. Any employee of a public or private educational institution who performs duties at the correctional facility shall receive, at a minimum, the same quality and amount of training as that required of any employee of the Board of Correctional Education. The public or private educational institution is responsible for the expenses incurred in complying with requirements for training its instructors and employees.*

(8) *Notwithstanding the purchasing requirements pursuant to s. 287.017(1), s. 287.057 applies to any contract between the Board of Correctional Education and a private postsecondary educational institution, and such contract shall be awarded by competitive sealed bidding.*

(9) *The board shall adopt rules under chapter 120 that specify criteria for contract agreements and standards for operating correctional education programs. Such rules and standards shall include:*

(a) *Requirements for course offerings and course lengths, taking into consideration the likelihood of the inmate's completing the course and the marketability of the skills taught in the course.*

(b) *Conditions under which an educational institution may employ inmate labor.*

(c) *Security requirements.*

(d) *Testing procedures and requirements.*

(e) *Requirements for issuing certificates and diplomas.*

(f) *Requirements for documenting student attendance.*

(g) *Requirements for recruiting and screening students. The board and the Department of Corrections shall develop and implement a formal screening process to determine which inmates may be admitted to an education program. The screening process shall include assessment of the inmate's sentence length, probability of transfer or reassignment, and probability for early release.*

(h) *An inmate may not enroll in an education program administered by the board if the inmate is serving under sentence of death or any life sentence without eligibility for parole or release.*

(i) *Hours of instruction.*

(j) *Staff qualifications and staffing level requirements.*

(k) *Federal grant payment and refund requirements. The educational institution shall return the federal aid refund due to the Federal Government within 30 days, including weekends and holidays, after the student's last date of attendance or the date the school discovers that the student has withdrawn. The educational institution shall compile attendance daily and shall determine within 5 academic days after the student's last date of attendance that the student has withdrawn. The educational institution may not submit a payment request for federal grant funding for any inmate who withdraws from a course within the first 10 academic days after enrollment.*

(l) *Requirements for purchasing supplies and equipment.*

(m) *Requirements for maintaining equipment.*

(n) *Requirements for compiling and reporting placement statistics for former inmates. Each educational institution shall annually submit to the Department of Education a list of inmates who have completed a course or program conducted by the institution. The Department of Education shall determine which inmates have been released and shall calculate placement statistics.*

(o) *Requirements for setting tuition fees and using in-kind contributions. In establishing fees, a private educational institution shall use a tuition fee that is competitive with the tuition fees for similar programs and courses offered in the private sector and shall consider resources provided by the Correctional Education School Authority and the Department of Corrections.*

(10) *Each postsecondary educational institution shall submit a report to the Board of Correctional Education by March 1 of each year that documents the institution's adherence to its contract, its compliance with rules, procedures, and performance standards established by the Board of Correctional Education, and its compliance with rules adopted under ss. 246.201-246.231. The report shall include an independently audited financial statement.*

(11) *If the Board of Correctional Education finds that a public or private postsecondary educational institution is not in compliance with any provision of this section, it shall submit a notice of noncompliance to the institution; shall submit a complaint to the appropriate state board governing said institution; shall provide notice to the institution to correct the deficiencies within 30 days; and may terminate the institution's contract if the institution has not come into compliance at the end of the 30-day period.*

(12) *The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall investigate any complaint or suspected violation of its rules adopted under ss. 246.201-246.231 by a private postsecondary educational institution operating under a contract with the Board of Correctional Education.*

(13) *School districts and community colleges that receive a federal Pell Grant contract and provide education services through the federal Pell Grant program to inmate students may charge the full cost of education and shall be subject to provisions of (9)(a)-(n) and (10). Notwithstanding s. 240.35(12) and s. 230.645(4), school districts and community colleges may use in-kind contributions of classroom space, security provisions, and equipment provided by the Correctional Education School Authority and the Department of Corrections as partial payment of an inmate's education.*

Section 23. The Correctional Education School Authority shall adopt rules governing the competitive procurement of contractual education services with school districts, community colleges, or licensed, accredited private postsecondary educational institutions no later than December 31, 1992. The authority shall begin soliciting proposals and awarding contracts for education services no later than July 1, 1993. A significant portion of the legislative appropriation for correctional education shall be allocated to contractual education services, if services so provided are more cost-efficient, cost-effective, or timely than those provided by the authority or available to it under existing law.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 3, line 18, through page 4, line 6, strike all of said lines and insert: expanding the contract monitoring functions of the Board of Correctional Education; expanding and setting priorities for the goals of correctional education; eliminating the appointment process and designation of the education program manager; expanding the responsibility of the Director of Correctional Education for the solicitation of entitlement funds and private donations; authorizing the Board of Correctional Education to contract with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; authorizing school districts and community colleges who provide education services through a federal Pell Grant program to inmate students to charge the full educational cost; authorizing in-kind contributions as partial payment; requiring the adoption of certain rules; mandating certain contract education services if such services are more cost-effective, cost-efficient, or timely; amending s.

Senator Dantzer moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 16, line 19 through page 20, line 14, of the amendment, strike all of said lines and insert:

(7)(a) *The Board of Correctional Education may enter into contracts with private postsecondary educational institutions to provide educational services, funded from federal grants, within correctional facilities in the state correctional system. A private institution may not provide onsite educational services to inmates without a written contract with the board. The term of the contract may not exceed 1 year, but the contract may be renewed one or more times.*

(b) *Any private postsecondary educational institution that operates under a contract with the Board of Correctional Education shall be licensed by the State Board of Independent Postsecondary Vocational,*

Technical, Trade, and Business Schools. Each instructor shall meet minimum qualifications to be established by the Board of Correctional Education. Any other employee of the private educational institution who performs duties at the correctional facility shall receive, at a minimum, the same quality and amount of training as that required for an employee of an education program operated by the Board of Correctional Education. The private educational institution is responsible for the expenses incurred in complying with requirements for training its instructors and employees.

(8) *Notwithstanding the purchasing requirements of s. 287.017(1), s. 287.057 applies to any contract between the Board of Correctional Education and a private postsecondary education institution, and such contract must be awarded by competitive sealed bidding. The board shall adopt rules under chapter 120 that specify criteria for contract agreements and standards for operating correctional education programs. Such contract must include:*

(a) *Requirements for course offerings and course lengths, taking into consideration the likelihood of an inmate to complete the course, the marketability of the skills taught in the course, and the likelihood of an inmate to return to society and benefit from the instruction received.*

(b) *Conditions under which a private educational institution may employ inmate labor.*

(c) *Security requirements.*

(d) *Testing procedures and requirements.*

(e) *Requirements for issuing certificates and diplomas.*

(f) *Requirements for documenting student attendance.*

(g) *Requirements for recruiting and screening students. The board and the Department of Corrections shall develop and implement a formal screening process to determine which inmates may be admitted to an education program. The screening process must include an assessment of the inmate's sentence length, probability of transfer or reassignment, and probability for early release. An inmate may not enroll in an education program administered by the board if the inmate is serving under sentence of death or any life sentence without eligibility for parole or release.*

(h) *Hours of instruction.*

(i) *Staff qualifications and staffing level requirements.*

(j) *Federal grant payment and refund requirements. The private educational institution shall return the federal aid refund due to the Federal Government within 30 days after the student's last date of attendance or the date the school discovers that the student has withdrawn. The private educational institution shall compile attendance daily and shall determine within 5 academic days after the student's last date of attendance that the student has withdrawn. A private educational institution may not submit a payment request for federal grant funding for any inmate who withdraws from a course within the first 10 academic days after enrollment.*

(k) *Requirements for setting tuition fees and using in-kind contributions. In establishing fees, a private educational institution shall use a tuition fee that is competitive with the tuition fees for similar programs and courses offered in the private sector and shall consider resources provided by the Correctional Education School Authority and the Department of Corrections.*

(l) *Requirements for purchasing supplies and equipment.*

(m) *Requirements for maintaining equipment.*

(n) *Requirements for compiling and reporting placement statistics for former inmates. Each private educational institution shall annually submit to the Department of Education a list of inmates who have completed a course or program conducted by the institution. The Department of Education shall determine which inmates have been released and shall calculate placement statistics.*

(9) *The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools may investigate any complaint or suspected violation of its rules adopted under ss. 246.201-246.231 by a private postsecondary educational institution operating under a contract with the Board of Correctional Education.*

(10) Each private postsecondary educational institution shall submit a report to the Board of Correctional Education by March 1 of each year that documents the institution's adherence to its contract, its compliance with rules, procedures, and performance standards established by the Board of Correctional Education, and its compliance with rules adopted under ss. 246.201-246.231. The report must include an independently audited financial statement.

(11) If the Board of Correctional Education finds that a private postsecondary educational institution is not in compliance with any provision of this section, it shall submit a notice of noncompliance to the institution; shall submit a complaint to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools under s. 246.226; shall provide notice to the institution to correct the deficiencies within 30 days; and may terminate the institution's contract if the institution has not come into compliance at the end of the 30-day period.

(12) A school district or community college that receives a federal Pell Grant contract and provides education services through the federal Pell Grant program to inmate students may charge the full cost of education. Notwithstanding s. 240.35(12) and s. 230.645(4), a school district or community college may accept in-kind contributions of classroom space, security provisions, and equipment provided by the Correctional Education School Authority and the Department of Corrections as partial payment of an inmate's education.

Amendment 1 as amended was adopted.

Senator Dantzler moved the following amendments which were adopted:

Amendment 2—On page 34, line 19 through page 38, line 14, strike all of said lines and insert:

(7)(a) The Board of Correctional Education may enter into contracts with private postsecondary educational institutions to provide educational services, funded from federal grants, within correctional facilities in the state correctional system. A private institution may not provide onsite educational services to inmates without a written contract with the board. The term of the contract may not exceed 1 year, but the contract may be renewed one or more times.

(b) Any private postsecondary educational institution that operates under a contract with the Board of Correctional Education shall be licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools. Each instructor shall meet minimum qualifications to be established by the Board of Correctional Education. Any other employee of the private educational institution who performs duties at the correctional facility shall receive, at a minimum, the same quality and amount of training as that required for an employee of an education program operated by the Board of Correctional Education. The private educational institution is responsible for the expenses incurred in complying with requirements for training its instructors and employees.

(8) Notwithstanding the purchasing requirements of s. 287.017(1), s. 287.057 applies to any contract between the Board of Correctional Education and a private postsecondary education institution, and such contract must be awarded by competitive sealed bidding. The board shall adopt rules under chapter 120 that specify criteria for contract agreements and standards for operating correctional education programs. Such rules and standards must include:

(a) Requirements for course offerings and course lengths, taking into consideration the likelihood of an inmate to complete the course, the marketability of the skills taught in the course, and the likelihood of an inmate to return to society and benefit from the instruction received.

(b) Conditions under which a private educational institution may employ inmate labor.

(c) Security requirements.

(d) Testing procedures and requirements.

(e) Requirements for issuing certificates and diplomas.

(f) Requirements for documenting student attendance.

(g) Requirements for recruiting and screening students. The board and the Department of Corrections shall develop and implement a

formal screening process to determine which inmates may be admitted to an education program. The screening process must include an assessment of the inmate's sentence length, probability of transfer or reassignment, and probability for early release. An inmate may not enroll in an education program administered by the board if the inmate is serving under sentence of death or any life sentence without eligibility for parole or release.

(h) Hours of instruction.

(i) Staff qualifications and staffing level requirements.

(j) Federal grant payment and refund requirements. The private educational institution shall return the federal aid refund due to the Federal Government within 30 days after the student's last date of attendance or the date the school discovers that the student has withdrawn. The private educational institution shall compile attendance daily and shall determine within 5 academic days after the student's last date of attendance that the student has withdrawn. A private educational institution may not submit a payment request for federal grant funding for any inmate who withdraws from a course within the first 10 academic days after enrollment.

(k) Requirements for setting tuition fees and using in-kind contributions. In establishing fees, a private educational institution shall use a tuition fee that is competitive with the tuition fees for similar programs and courses offered in the private sector and shall consider resources provided by the Correctional Education School Authority and the Department of Corrections.

(l) Requirements for purchasing supplies and equipment.

(m) Requirements for maintaining equipment.

(n) Requirements for compiling and reporting placement statistics for former inmates. Each private educational institution shall annually submit to the Department of Education a list of inmates who have completed a course or program conducted by the institution. The Department of Education shall determine which inmates have been released and shall calculate placement statistics.

(9) The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools may investigate any complaint or suspected violation of its rules adopted under ss. 246.201-246.231 by a private postsecondary educational institution operating under a contract with the Board of Correctional Education.

(10) Each private postsecondary educational institution shall submit a report to the Board of Correctional Education by March 1 of each year that documents the institution's adherence to its contract, its compliance with rules, procedures, and performance standards established by the Board of Correctional Education, and its compliance with rules adopted under ss. 246.201-246.231. The report must include an independently audited financial statement.

(11) If the Board of Correctional Education finds that a private postsecondary educational institution is not in compliance with any provision of this section, it shall submit a notice of noncompliance to the institution; shall submit a complaint to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools under s. 246.226; shall provide notice to the institution to correct the deficiencies within 30 days; and may terminate the institution's contract if the institution has not come into compliance at the end of the 30-day period.

(12) A school district or community college that receives a federal Pell Grant contract and provides education services through the federal Pell Grant program to inmate students may charge the full cost of education. Notwithstanding s. 240.35(12) and s. 230.645(4), a school district or community college may accept in-kind contributions of classroom space, security provisions, and equipment provided by the Correctional Education School Authority and the Department of Corrections as partial payment of an inmate's education.

Amendment 3 (with Title Amendment)—On page 7, lines 10-31 through page 9, lines 1-8, strike all of said lines and insert:

Section 1. Subsection (7) is added to section 794.011, Florida Statutes, as amended by section 3 of chapter 92-135, Laws of Florida, to read:

794.011 Sexual battery.—

(7) *A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, lines 2-9, strike all of said lines and insert: An act relating to corrections; amending s.

On motion by Senator Dantzler, further consideration of **CS for HB's 197-H, 19-H and 131-H** as amended was deferred.

Consideration of **CS for SB 268-H** and **CS for HB 325-H** was deferred.

HB 21-H—A bill to be entitled An act relating to the Uniform Commercial Code; amending s. 679.402, F.S.; revising language with respect to an additional fee and changing the fee required for filing any instrument permitted or required to be filed under the provisions of the code relating to secured transactions; amending s. 679.404, F.S.; revising language with respect to termination statements; amending s. 15.091, F.S.; revising language with respect to processing fees under the Uniform Commercial Code; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Kurth moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of lines 3 and 4 and insert: *1, 1992 January 1, 1980*, then within 10 days following written demand by the debtor after there is no outstanding

Amendment 2—On page 2, strike all of lines 21-24 and insert: a termination statement within 10 days after proper written demand therefor or written notice that the filing has been assigned to another party, together with such party's address, he is ~~shall be~~ liable to the debtor in the amount of \$10 per

Senator Souto moved that the rules be waived and that **HB 21-H** be read the third time by title. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—16 Nays—16

CS for HB 57-H—A bill to be entitled An act relating to fiscal matters; amending s. 215.322, F.S.; providing for payment of fines, penalties, court-ordered payments, and court costs by credit card or bank debit card; amending s. 218.31, F.S.; applying a definition; amending s. 27.702, F.S.; requiring the capital collateral representative to file certain motions for compensation and reimbursement and providing for deposit of funds into a trust fund; repealing s. 27.3455(9), F.S., relating to the future repeal of provisions regarding additional court costs; amending ss. 27.38 and 27.60, F.S.; authorizing expenditure of appropriated state funds for items enumerated in ss. 27.34 and 27.54, F.S.; providing for reporting requirements; amending s. 939.01, F.S.; providing requirements for the deposit and use of funds received by a state attorney in a criminal proceeding; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for HB 57-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

HB 145-H—A bill to be entitled An act relating to road designations; designating a portion of State Road 916 in Miami as "Maurice Rosen Boulevard"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote **HB 145-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SJR 2-H—A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, junior college districts, and universities, to continue using motor vehicle license revenues for capital outlay projects and other

educational needs of public school districts and junior college districts, and to begin to use motor vehicle license revenues for capital outlay projects and other educational programs of the state university system.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the resolving clause and insert:

That the following amendment to Section 9 of Article XII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XII SCHEDULE

SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secured by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, ~~and for fifty years thereafter~~, all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, ~~(hereinafter called "gross receipts taxes")~~, as in existence as of the date of the adoption of this amendment or as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, ~~community junior~~ colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later

than 30 years after the date of issuance thereof ~~July 1, 2025~~. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

a. For the payment of the principal of and interest on any bonds ~~due~~ ~~maturing~~ in such fiscal year;

b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;

c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9, Subsection (d) of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended) as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminous with the school district of each county as provided in Article IX, Section 4, Subsection (a) of this constitution, in each year computed as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9, Subsection (d) of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded at a lower net average interest cost rate by the issuance of refunding bonds maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (11)(13) of this subsection (d).

(3) Subject to the requirements of paragraph (1) of this subsection (d) beginning July 1, 1973 ~~and for thirty-five years thereafter~~, the first proceeds of the revenues derived from the licensing of motor vehicles (*hereinafter called "motor vehicle license revenues"*) to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and *community junior* college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and *community junior* college

districts in the ratio of the number of instruction units in each school district or *community junior college* district in each year computed as provided herein. The amount of the first *motor vehicle license* revenues derived from the state *motor vehicle license* taxes to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars (\$600) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1967-68, plus an amount equal in the aggregate to the product of eight hundred dollars (\$800) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1972-73 and for each school fiscal year thereafter which is in excess of the total number of such instruction units in all the school districts of Florida for the school fiscal year 1967-68, such excess units being designated "growth units." The amount of the first revenues derived from the state *motor vehicle license* revenues taxes to be so set aside in each year and distributed as provided herein shall additionally be an amount equal in the aggregate to the product of four hundred dollars (\$400) multiplied by the total number of instruction units in all *community junior college* districts of Florida. The number of instruction units in each school district or *community junior college* district in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each school district for the school fiscal year 1967-68 or *community junior college* district for the school fiscal year 1968-69 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such school district, including growth units, or *community junior college* district for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (hereinafter called the state board), or (3) the number of instruction units in each school district, including growth units, or *community junior college* district on behalf of which the state board has issued bonds or *motor vehicle license revenue tax* anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or *motor vehicle license revenue tax* anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2 of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first part of the revenues derived from the licensing of *motor vehicle license* revenues vehicles provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any *community junior college* district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes to issue bonds or *motor vehicle license revenue tax* anticipation certificates, and also to issue such bonds or *motor vehicle license revenue tax* anticipation certificates to pay, fund or refund any bonds or *motor vehicle license revenue tax* anticipation certificates theretofore issued by said state board. All such bonds or *motor vehicle license revenue tax* anticipation certificates shall bear interest at not exceeding the rate provided by general law and shall mature not later than 30 years after the date of issuance thereof five per centum per annum, or such higher interest rate as may be authorized by statute heretofore or hereafter passed by a three fifths (3/5) vote of each house of the legislature. All such bonds shall mature serially in annual installments commencing not more than three (3) years from the date of issuance thereof and ending not later than thirty (30) years from the date of issuance, or July 1, 2007, A.D., whichever is earlier. All such *motor vehicle license revenue tax* anticipation certificates shall mature prior to July 1, 2007, A.D. The state board shall have power to determine all other details of the said bonds or *motor vehicle license revenue tax* anticipation certificates and to sell in the manner provided by general law at public sale after public advertisement, or exchange the said bonds or *motor vehicle license revenue tax* anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or *motor vehicle license revenue tax* anticipation certificates, including refunding bonds or refunding *motor vehicle license revenue tax* anticipation certificates, all or any part from the anticipated revenues to be derived from the licensing of *motor vehicle license* revenues vehicles provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or *motor vehicle license revenue tax* anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or *motor vehicle license revenue tax* anticipation certificates shall ever be issued by the state board, except to refund outstanding bonds or *motor vehicle license revenue tax* anticipation certificates, until after the adoption of a resolution requesting the issuance thereof by the school board of the school district or board of trustees of the *community junior college* district on behalf of which the obligations are to be issued. The state board of education shall limit the amount of such bonds or *motor vehicle license revenue tax* anticipation certificates which can be issued on behalf of any school district or *community junior college* district to ninety percent (90%) of the amount which it determines can be serviced by the revenue accruing to the school district or *community junior college* district under the provisions of this amendment and shall determine the reasonable allocation of the interest savings from the issuance of refunding bonds or *motor vehicle license revenue tax* anticipation certificates, and such determinations shall be conclusive. All such bonds or *motor vehicle license revenue tax* anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the school board of the school district or board of trustees of the *community junior college* district requesting the issuance thereof, and no election or approval of qualified electors shall be required for the issuance thereof.

(8) The state board shall in each year use the funds distributable pursuant to this amendment to the credit of each school district or *community junior college* district only in the following manner and in order of priority:

a. To comply with the requirements of paragraph (1) of this subsection (d).

b. To pay all amounts of principal and interest due maturing in such year on any bonds or *motor vehicle license revenue tax* anticipation certificates issued under the authority hereof, including refunding bonds or *motor vehicle license revenue tax* anticipation certificates, issued on behalf of the school board of such school district or board of trustees of such *community junior college* district; subject, however, to any covenants or agreements made by the state board concerning the rights between holders of different issues of such bonds or *motor vehicle license revenue tax* anticipation certificates, as herein authorized.

c. To establish and maintain a sinking fund or funds to meet future requirements for debt service or reserves therefor, on bonds or *motor vehicle license revenue tax* anticipation certificates issued on behalf of the school board of such school district or board of trustees of such *community junior college* district under the authority hereof, whenever the state board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the state board shall in its discretion determine.

d. To distribute annually to the several school boards of the school districts or the boards of trustees of the *community junior college* districts for use in payment of debt service on bonds heretofore or hereafter issued by any such school boards of the school districts or boards of trustees of the *community junior college* districts where the proceeds of the bonds were used, or are to be used, in the acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects in such school districts or *community junior college* districts and which capital outlay projects have been approved by the school board of the school district or board of trustees of the *community junior college* district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or *community junior college* district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any *community junior college*

district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any *community junior* college district and for the rank and priority of such pledge. Any such covenants or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To pay the expenses of the state board in administering this subsection (d), which shall be prorated among the various school districts and community college districts and paid out of the proceeds of the bonds or motor vehicle license revenue anticipation certificates or from the funds distributable to each school district and community college district on the same basis as such motor vehicle license revenues are distributable to the various school districts and community college districts.

f.e. To distribute annually to the several school boards of the school districts or boards of trustees of the community junior college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or community junior college district as shall be requested by resolution of the school board of the school district or board of trustees of the community junior college district.

g.f. When all major capital outlay needs of a school district or community junior college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or community junior college district as the school board of the school district or board of trustees of the community junior college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or *community junior* college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle license revenue tax anticipation certificates and from the motor vehicle license revenues taxes, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or *community junior* college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or *community junior* college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the *community junior* college district and with the approval of the state board; and provided, further, that this paragraph (9) shall not in any manner affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle license revenue tax anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district, or board of trustees of any *community junior* college district.

~~(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district.~~

(10)(11) The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license revenues taxes during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license revenues taxes from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle license revenue tax anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle license revenue tax anticipation certificates.

~~(12) The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.~~

(11)(13) Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license revenues taxes as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of 1885, as amended prior to 1968, and bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

~~(f) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.~~

~~(g) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.~~

~~(h) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (e) differs from that contained herein, then such other language as to subsection (e) shall prevail over the language of subsection (e) as contained herein. This amendment shall take effect as of July 1, 1975.~~

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT ARTICLE XII, SECTION 9

BONDS FOR THE CONSTRUCTION OF EDUCATIONAL FACILITIES.—Proposing an amendment to the State Constitution to:

(1) Continue indefinitely the current dedication of gross receipts taxes to fund construction of educational facilities for the state system of public education.

(2) Continue indefinitely the current dedication of a portion of the motor vehicle license taxes to fund construction of educational facilities for, and other educational needs of, public school districts and community college districts.

(3) Revise interest and maturity restrictions on education bonds.

And the title is amended as follows:

In title, strike everything before the resolving clause and insert:

Senate Joint Resolution No. ____

A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, state community college districts, and state universities, to continue using motor vehicle license revenues for capital outlay projects and other

educational needs of public school districts and state community college districts, and to revise interest and maturity restrictions on education bonds.

On motion by Senator Johnson, by two-thirds vote **SJR 2-H** as amended was read the third time in full as follows:

SJR 2-H—A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, state community college districts, and state universities, to continue using motor vehicle license revenues for capital outlay projects and other educational needs of public school districts and state community college districts, and to revise interest and maturity restrictions on education bonds.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 9 of Article XII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XII SCHEDULE

SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secured by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, ~~and for fifty years thereafter~~, all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, ~~(hereinafter called "gross receipts taxes")~~, as in existence as of the date of the adoption of this amendment or as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law

to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, *community junior colleges*, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later than *30 years after the date of issuance thereof July 1, 2025*. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

a. For the payment of the principal of and interest on any bonds *due maturing* in such fiscal year;

b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;

c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of

the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9, Subsection (d) of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended) as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminous with the school district of each county as provided in Article IX, Section 4, Subsection (a) of this constitution, in each year computed as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9, Subsection (d) of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded at a lower net average interest cost rate by the issuance of refunding bonds maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (11)(13) of this subsection (d).

(3) Subject to the requirements of paragraph (1) of this subsection (d) beginning July 1, 1973 ~~and for thirty-five years thereafter~~, the first proceeds of the revenues derived from the licensing of motor vehicles (*hereinafter called "motor vehicle license revenues"*) to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and *community junior* college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and *community junior* college districts in the ratio of the number of instruction units in each school district or *community junior* college district in each year computed as provided herein. The amount of the first *motor vehicle license revenues* ~~derived from the state motor vehicle license taxes~~ to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars (\$600) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1967-68, plus an amount equal in the aggregate to the product of eight hundred dollars (\$800) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1972-73 and for each school fiscal year thereafter which is in excess of the total number of such instruction units in all the school districts of Florida for the school fiscal year 1967-68, such excess units being designated "growth units." The amount of the first ~~revenues derived from the state motor vehicle license revenues taxes~~ to be so set aside in each year and distributed as provided herein shall additionally be an amount equal in the aggregate to the product of four hundred dollars (\$400) multiplied by the total number of instruction units in all *community junior* college districts of Florida. The number of instruction units in each school district or *community junior* college district in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each school district for the school fiscal year 1967-68 or *community junior* college district for the school fiscal year 1968-69 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such school district, including growth units, or *community junior* college district for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (*hereinafter called the state board*), or (3) the number of instruction units in each school district, including growth units, or *community junior* college district on behalf of which the state board has issued bonds or motor vehicle *license revenue tax* anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle *license revenue tax* anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2 of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first ~~part of the revenues derived from the licensing of motor vehicle license revenues vehicles~~ provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any *community junior* college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes to issue bonds or motor vehicle *license revenue tax* anticipation certificates, and also to issue such bonds or motor vehicle *license revenue tax* anticipation certificates to pay, fund or refund any bonds or motor vehicle *license revenue tax* anticipation certificates theretofore issued by said state board. All such bonds or motor vehicle *license revenue tax* anticipation certificates shall bear interest at not exceeding ~~the rate provided by general law and shall mature not later than 30 years after the date of issuance thereof five per centum per annum, or such higher interest rate as may be authorized by statute heretofore or hereafter passed by a three-fifths (3/5) vote of each house of the legisla-~~

ture. All such bonds shall mature serially in annual installments commencing not more than three (3) years from the date of issuance thereof and ending not later than thirty (30) years from the date of issuance, or July 1, 2007, A.D., whichever is earlier. All such motor vehicle tax anticipation certificates shall mature prior to July 1, 2007, A.D. The state board shall have power to determine all other details of the said bonds or motor vehicle license revenue tax anticipation certificates and to sell in the manner provided by general law at public sale after public advertisement, or exchange the said bonds or motor vehicle license revenue tax anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle license revenue tax anticipation certificates, including refunding bonds or refunding motor vehicle license revenue tax anticipation certificates, all or any part from the anticipated revenues to be derived from the licensing of motor vehicle license revenues vehicles provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle license revenue tax anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or motor vehicle license revenue tax anticipation certificates shall ever be issued by the state board, except to refund outstanding bonds or motor vehicle license revenue anticipation certificates, until after the adoption of a resolution requesting the issuance thereof by the school board of the school district or board of trustees of the community junior college district on behalf of which the obligations are to be issued. The state board of education shall limit the amount of such bonds or motor vehicle license revenue tax anticipation certificates which can be issued on behalf of any school district or community junior college district to ninety percent (90%) of the amount which it determines can be serviced by the revenue accruing to the school district or community junior college district under the provisions of this amendment and shall determine the reasonable allocation of the interest savings from the issuance of refunding bonds or motor vehicle license revenue anticipation certificates, and such determinations determination shall be conclusive. All such bonds or motor vehicle license revenue tax anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the school board of the school district or board of trustees of the community junior college district requesting the issuance thereof, and no election or approval of qualified electors shall be required for the issuance thereof.

(8) The state board shall in each year use the funds distributable pursuant to this amendment to the credit of each school district or community junior college district only in the following manner and in order of priority:

a. To comply with the requirements of paragraph (1) of this subsection (d).

b. To pay all amounts of principal and interest due maturing in such year on any bonds or motor vehicle license revenue tax anticipation certificates issued under the authority hereof, including refunding bonds or motor vehicle license revenue tax anticipation certificates, issued on behalf of the school board of such school district or board of trustees of such community junior college district; subject, however, to any covenants or agreements made by the state board concerning the rights between holders of different issues of such bonds or motor vehicle license revenue tax anticipation certificates, as herein authorized.

c. To establish and maintain a sinking fund or funds to meet future requirements for debt service or reserves therefor, on bonds or motor vehicle license revenue tax anticipation certificates issued on behalf of the school board of such school district or board of trustees of such community junior college district under the authority hereof, whenever the state board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the state board shall in its discretion determine.

d. To distribute annually to the several school boards of the school districts or the boards of trustees of the community junior college districts for use in payment of debt service on bonds heretofore or hereafter issued by any such school boards of the school districts or boards of trust-

ees of the community junior college districts where the proceeds of the bonds were used, or are to be used, in the acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects in such school districts or community junior college districts and which capital outlay projects have been approved by the school board of the school district or board of trustees of the community junior college district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or community junior college district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any community junior college district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any community junior college district and for the rank and priority of such pledge. Any such covenants or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To pay the expenses of the state board in administering this subsection (d), which shall be prorated among the various school districts and community college districts and paid out of the proceeds of the bonds or motor vehicle license revenue anticipation certificates or from the funds distributable to each school district and community college district on the same basis as such motor vehicle license revenues are distributable to the various school districts and community college districts.

f.e. To distribute annually to the several school boards of the school districts or boards of trustees of the community junior college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or community junior college district as shall be requested by resolution of the school board of the school district or board of trustees of the community junior college district.

g.f. When all major capital outlay needs of a school district or community junior college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or community junior college district as the school board of the school district or board of trustees of the community junior college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or community junior college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle license revenue tax anticipation certificates and from the motor vehicle license revenues taxes, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or community junior college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or community junior college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the community junior college district and with the approval of the state board; and provided, further, that this paragraph (9) shall not in any manner affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle license revenue tax anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district, or board of trustees of any community junior college district.

(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district.

(10)(11) The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license revenues taxes during the life of this amend-

ment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license revenues taxes from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle license revenue tax anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle license revenue tax anticipation certificates.

~~(12) The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.~~

(11)(13) Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license revenues taxes as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of 1885, as amended prior to 1968, and bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

~~(f) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.~~

~~(g) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.~~

~~(h) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (e) differs from that contained herein, then such other language as to subsection (e) shall prevail over the language of subsection (e) as contained herein. This amendment shall take effect as of July 1, 1975.~~

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT ARTICLE XII, SECTION 9

BONDS FOR THE CONSTRUCTION OF EDUCATIONAL FACILITIES.—Proposing an amendment to the State Constitution to:

(1) Continue indefinitely the current dedication of gross receipts taxes to fund construction of educational facilities for the state system of public education.

(2) Continue indefinitely the current dedication of a portion of the motor vehicle license taxes to fund construction of educational facilities for, and other educational needs of, public school districts and community college districts.

(3) Revise interest and maturity restrictions on education bonds.

—and as amended passed by the required constitutional three-fifths vote of the membership, and was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Senate resumed consideration of—

CS for HB's 197-H, 19-H and 131-H—A bill to be entitled An act relating to corrections; amending s. 944.275, F.S.; prohibiting grants of basic or incentive gain-time to offenders convicted under chapter 794, F.S.; amending s. 775.084, F.S., relating to habitual and habitual violent felony offenders; establishing ineligibility of offenders convicted under chapter 794, F.S., for basic or incentive gain-time; amending s. 20.315, F.S.; transferring legal services in the Department of Corrections from the Office of Management and Budget to the secretary; renaming the Community Services Program Office the Probation and Parole Program Office; transferring program evaluation responsibilities from the Office of Management and Budget to the Assistant Secretary for Programs; transferring staff development from the Office of Programs to the Office of Management and Budget; repealing an obsolete provision; amending s. 944.17, F.S.; requiring agencies to release records relating to inmate custody classification to the Department of Corrections under certain circumstances; amending s. 922.10, F.S.; relating to Department of Corrections records identifying executioners; repealing the department's authority to adopt rules regulating privacy or privilege of information contained in such records; repealing s. 945.25(4), F.S., relating to departmental rulemaking authority with respect to privacy of information; amending s. 944.702, F.S.; revising intent relating to the Transition Assistance Program Act; amending s. 944.703, F.S.; revising the time period within which the department must confirm certain information; amending s. 944.704, F.S.; deleting the title of transition assistance coordinator and specifying the duties of staff who provide such assistance; amending s. 944.705, F.S.; deleting requirements relating to the release orientation program; amending s. 944.706, F.S.; eliminating certain provisions relating to basic release assistance; amending s. 944.707, F.S.; eliminating certain postrelease services; amending s. 944.277, F.S.; expanding exceptions to eligibility for grants of provisional credits and authorizing use of certain information in determining eligibility for provisional credits; requiring the Department of Corrections to deliver a report to the Legislature; specifying what is to be considered in the report; authorizing the department to use sole-source contracted services; amending s. 947.1405, F.S.; requiring maximum level and length of supervision of offenders convicted of certain offenses; amending s. 947.146, F.S.; limiting control release to in-state inmates; requiring certain recommendations for advancement or extension; requiring a review process for certain inmates; creating s. 947.149, F.S.; requiring a conditional medical release program for inmates determined to be permanently incapacitated or terminally ill; providing rulemaking authority; requiring a study by the Department of Corrections concerning older inmates and long-term adult inmates with extensive chronic health care needs; creating s. 944.471, F.S.; providing a short title; creating s. 944.472, F.S.; providing legislative findings and purposes; creating s. 944.473, F.S.; providing for the establishment of a program for random drug and alcohol testing for inmates in the correctional system; authorizing the department to adopt rules; providing for substance abuse treatment programs for inmates testing positive, if available; providing reporting requirements; amending s. 242.68, F.S.; authorizing the Board of Correctional Education to contract with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; authorizing school districts and community colleges who provide education services through a federal Pell Grant program to inmate students to charge the full educational cost; authorizing in-kind contributions as partial payment; amending s. 246.203, F.S.; revising the definition of the term "school" for purposes of ss. 246.201-246.231, F.S.; amending s. 246.213, F.S.; requiring the State Board of Education to adopt certain licensing requirements for independent postsecondary schools that operate within state correctional facilities; requiring the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to make certain recommendations to the Board of Correctional Education; amending s. 246.215, F.S.; providing licensing requirements for independent postsecondary

schools that operate within state correctional facilities; amending s. 246.228, F.S.; authorizing the Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to take certain disciplinary actions against schools that violate rules adopted by the Board of Correctional Education; amending s. 246.229, F.S.; authorizing the Department of Legal Affairs and the state attorney to enforce rules adopted by the Board of Correctional Education; amending s. 246.231, F.S.; providing penalties; amending s. 775.16, F.S.; disqualifying persons convicted of a drug offense under the laws of other states or countries, if such offense would be a felony under chapter 893, from applying for state employment, licenses, and other benefits unless specified conditions are met; amending s. 794.011, F.S.; creating the "Junny Rios Martinez, Jr., Act of 1992"; prohibiting eligibility for basic gain-time for persons convicted of sexual battery against victims under 18 years of age; amending s. 921.187, F.S.; authorizing the court to require an offender on community control, probation, or probation following incarceration to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; amending s. 948.03, F.S.; requiring an offender, as a condition of his probation or community control, to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; providing a definition; creating ss. 945.71-945.74, F.S.; providing legislative intent and purpose as to inmate training programs; providing eligibility and screening of inmates; providing for program operation; requiring the department to adopt certain rules; requiring the department to report to the Legislature; creating s. 766.317, F.S., relating to applicability of medical malpractice provisions to prisoners; providing that the medical negligence provisions of ch. 766, F.S., do not apply to prisoners in state, county, or municipal detention facilities; providing that ss. 766.303-766.316, F.S., which provide the no-fault remedy for infants who meet the definition under the Florida Birth-Related Neurological Injury Compensation Plan, are applicable; creating s. 946.5026, F.S.; extending sovereign immunity to the corporation established pursuant to s. 946.504(1); providing for a study of prison industries by a committee of the House of Representatives; amending s. 944.026, F.S.; revising requirements for community-based residential drug treatment facilities; authorizing commitment of certain drug offenders to such facilities; amending s. 948.001, F.S.; revising certain caseload restrictions for supervision of drug offenders; amending s. 948.51, F.S.; requiring community corrections programs and plans to include provisions for public safety; revising county eligibility provisions and departmental responsibility; expanding purposes of community corrections funds; amending s. 950.002, F.S.; authorizing nonsentenced and pretrial detainees to be housed in county work camps; authorizing two or more counties to provide for the operation of work camps; amending s. 951.26, F.S.; redesignating the county correctional planning committees as county public safety coordinating councils; creating the Community Corrections Operating Trust Fund for purposes of funding the operating expenses of county work camps; requiring meetings and records of the councils to be open to the public; amending s. 921.187, F.S.; conforming terminology; providing effective dates.

—which had been previously considered this day.

RECONSIDERATION OF AMENDMENT

On motion by Senator Dantzler, the Senate reconsidered the vote by which **Amendment 2** was adopted. **Amendment 2** was withdrawn.

Senator Dantzler moved the following amendments which were adopted:

Amendment 4—On page 45, strike all of lines 1-16 and renumber subsequent sections.

Amendment 5—On page 22, line 8, strike "relevant to the conduct of" and insert: *leading to or generated during the course of*

Amendment 6—On page 42, strike all of lines 24 and 25 and insert: *committed in this state, would constitute the felony of selling or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, is:*

SENATOR LANGLEY PRESIDING

Amendment 7—On page 50, line 17, after the period (.) insert: *Only inmates eligible for control release pursuant to s. 947.146 shall be permitted to participate in the training program.*

Amendment 8 (with Title Amendment)—On page 52, line 14, after "the" insert: *Senate and the*

And the title is amended as follows:

In title, on page 6, line 11, after "the" insert: *Senate and the*

THE PRESIDENT PRESIDING

Amendment 9—On page 24, line 11 through page 26, line 12, strike all of said lines and insert:

Section 16. Subsections (4), (5), (7), and (12) of section 947.146, Florida Statutes, are amended to read:

947.146 Control Release Authority.—

(4) A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department *and incarcerated within the state*, within 90 days following notification by the department of receipt of the inmate, except an inmate who:

(a) Is serving a sentence which includes a mandatory minimum provision for a capital offense or drug trafficking offense and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2);

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Is sentenced, ~~or~~ has previously been sentenced, *or has been sentenced at any time* under s. 775.084, or has been sentenced at any time in another jurisdiction as a habitual offender;

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Article V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or has ever been convicted of any degree of murder in another jurisdiction.

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

(5) Control release dates shall be based upon a system of uniform criteria which shall include, but not be limited to, present offenses for which the person is committed, past criminal conduct, length of cumulative sentences, and age of the offender at the time of commitment, together with any aggravating or mitigating circumstances.

Amendment 10—In title, on page 5, lines 9 and 10, strike "against victims under 18 years of age"

On motion by Senator Dantzler, by two-thirds vote **CS for HB's 197-H, 19-H and 131-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Gardner, by two-thirds vote—

CS for SB 268-H—A bill to be entitled An act making supplemental appropriations, providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, other expenses, capital outlay, and other improvements and for other specified purposes of the various agencies of State government; providing an effective date.

—was read the second time by title.

Senators Burt and Girardeau offered the following amendment which was moved by Senator Burt and adopted:

Amendment 1—

SECTION 01 STRIKE: INSERT:
PAGE 9

Insert after proviso following Specific Appropriation 26:

INSURANCE, DEPARTMENT OF
RISK MANAGEMENT, DIVISION OF

| | |
|--------------------------------|--------|
| SALARIES AND BENEFITS | 1.0 |
| FROM FIRE INSURANCE TRUST FUND | 36,009 |

| | |
|--------------------------------|--------|
| EXPENSES | |
| FROM FIRE INSURANCE TRUST FUND | 16,319 |

| | | |
|--------------------------------|---|-------|
| OPERATING CAPITAL OUTLAY | | |
| FROM FIRE INSURANCE TRUST FUND | 0 | 4,217 |

Senator Meek moved the following amendment which failed:

Amendment 2—

SECTION 2C
PAGE 14

Following Section 2B on page 14, insert a new Section 2C as follows:

EDUCATION, DEPARTMENT OF

Within the State University System funds appropriated in Specific Appropriation 1729 of Senate Bill 140-H, as amended, \$350,000 shall be allocated to renovate, equip and maintain the Center for Nonlinear and Nonequilibrium Aeroscience housed in the new National High Magnetic Field Laboratory on the Innovation Park Campus in Tallahassee.

The vote was:

Yeas—10 Nays—20

Senator Grant moved the following amendment which failed:

Amendment 3—

SECTION 01
PAGE 2
ITEM 4

4 AID TO LOCAL GOVERNMENTS
GRANTS AND AIDS - FLORIDA
EDUCATIONAL FINANCE PROGRAM
FROM GENERAL REVENUE FUND
FROM PRINCIPAL STATE SCHOOL
TRUST FUND

Add the following new paragraph of proviso following Specific Appropriation 4:

From the funds provided in Specific Appropriation 4 and Specific Appropriation 516 of Senate Bill 140-H, as amended, the Department shall take the total dollars per weighted FTE for 1992-93 from the calculation of the FEFP and rank this column with the highest district in funds per weighted FTE being 1. All districts below the 50th district shall be allocated 25 percent of the amount they are below the 50th district per weighted FTE times the number of weighted FTE in the district.

The vote was:

Yeas—14 Nays—23

Senators Burt and Girardeau offered the following amendment which was moved by Senator Burt and adopted:

Amendment 4—

SECTION 01 STRIKE: INSERT:
PAGE 9

Insert after proviso following Specific Appropriation 26:

INSURANCE, DEPARTMENT OF
OFFICE OF THE TREASURER AND
DIVISION OF ADMINISTRATION

| | |
|-------------------------------|--------|
| OTHER PERSONAL SERVICES | |
| FROM INSURANCE COMMISSIONER'S | |
| REGULATORY TRUST FUND | 20,000 |

| | |
|-------------------------------|---------|
| DATA PROCESSING SERVICES | |
| TREASURER'S MANAGEMENT | |
| INFORMATION CENTER - | |
| DEPARTMENT OF INSURANCE | |
| FROM INSURANCE COMMISSIONER'S | |
| REGULATORY TRUST FUND | 538,950 |

INSURER SERVICES, DIVISION OF

| | |
|-------------------------------|---------|
| OTHER PERSONAL SERVICES | |
| FROM INSURANCE COMMISSIONER'S | |
| REGULATORY TRUST FUND | 180,785 |

| | |
|-------------------------------|---------|
| DATA PROCESSING SERVICES | |
| TREASURER'S MANAGEMENT | |
| INFORMATION CENTER - | |
| DEPARTMENT OF INSURANCE | |
| FROM INSURANCE COMMISSIONER'S | |
| REGULATORY TRUST FUND | 137,800 |

INSURANCE CONSUMER SERVICES,
DIVISION OF

| | | |
|-------------------------------|------|---------|
| SALARIES AND BENEFITS | POS. | 4 |
| FROM INSURANCE COMMISSIONER'S | | |
| REGULATORY TRUST FUND | | 136,140 |

| | |
|-------------------------------|--------|
| EXPENSES | |
| FROM INSURANCE COMMISSIONER'S | |
| REGULATORY TRUST FUND | 30.276 |

| | |
|-------------------------------|--------|
| OPERATING CAPITAL OUTLAY | |
| FROM INSURANCE COMMISSIONER'S | |
| REGULATORY TRUST FUND | 16,868 |

STATE FIRE MARSHAL, DIVISION OF

| | |
|---|--------|
| OTHER PERSONAL SERVICES FROM INSURANCE COMMISSIONER'S REGULATORY TRUST FUND | 75.000 |
|---|--------|

| | | |
|-------------------------------|---|---------|
| OPERATING CAPITAL OUTLAY | | |
| FROM INSURANCE COMMISSIONER'S | | |
| REGULATORY TRUST FUND | | 224,000 |
| FROM FIRE COLLEGE TRUST FUND | 0 | 28,000 |

SPECIAL CATEGORIES
FINGERPRINTING OF APPLICANTS

| | | | | |
|---|---------|-----------|--|---------|
| FROM FIRE COLLEGE TRUST FUND | 0 | 150,000 | TRUST FUND | 27,474 |
| DATA PROCESSING SERVICES | | | EXPENSES | |
| TREASURER'S MANAGEMENT | | | FROM SAVE THE MANATEE | |
| INFORMATION CENTER - | | | TRUST FUND | 7,569 |
| DEPARTMENT OF INSURANCE | | | | |
| FROM INSURANCE COMMISSIONER'S | | | OPERATING CAPITAL OUTLAY | |
| REGULATORY TRUST FUND | | 454,900 | FROM SAVE THE MANATEE | |
| | | | TRUST FUND | 4,217 |
| INSURANCE FRAUD, DIVISION OF | | | | |
| SALARIES AND BENEFITS | POS. | 3 | Senator Walker moved the following amendments which were adopted: | |
| FROM INSURANCE COMMISSIONER'S | | | Amendment 6— | |
| REGULATORY TRUST FUND | | 98,251 | | |
| EXPENSES | | | SECTION 01 | STRIKE: |
| FROM INSURANCE COMMISSIONER'S | | | PAGE 6 | INSERT: |
| REGULATORY TRUST FUND | | 22,707 | ITEM 14A | |
| OPERATING CAPITAL OUTLAY | | | Insert new item in the Department of Health and Rehabilitative Services | |
| FROM INSURANCE COMMISSIONER'S | | | immediately preceding Item 15 in the Department of Health and Reha- | |
| REGULATORY TRUST FUND | 0 | 81,651 | bitative Services: | |
| DATA PROCESSING SERVICES | | | HEALTH AND REHABILITATIVE | |
| TREASURER'S MANAGEMENT | | | SERVICES, DEPARTMENT OF | |
| INFORMATION CENTER - | | | DEPUTY SECRETARY FOR HUMAN | |
| DEPARTMENT OF INSURANCE | | | SERVICES | |
| FROM INSURANCE COMMISSIONER'S | | | 14A SPECIAL CATEGORIES - | |
| REGULATORY TRUST FUND | | 15,450 | PURCHASE OF SERVICES | |
| LIQUIFIED PETROLEUM GAS, DIVISION OF | | | CHILD SUPPORT ENFORCEMENT | |
| OPERATING CAPITAL OUTLAY | | | FROM ADMINISTRATIVE TRUST | |
| FROM INSURANCE COMMISSIONER'S | | | FUND | |
| REGULATORY TRUST FUND | | 22,000 | 187,735 | |
| DATA PROCESSING SERVICES | | | Insert proviso following Item 14A: | |
| TREASURER'S MANAGEMENT | | | From the funds provided in Specific Appropriation 14A, \$187,735 from | |
| INFORMATION CENTER - | | | the Administrative Trust Fund is provided for restoration of General | |
| DEPARTMENT OF INSURANCE | | | Revenue Fund budget reductions of Child Support Enforcement con- | |
| FROM INSURANCE COMMISSIONER'S | | | tracts with State Attorneys. | |
| REGULATORY TRUST FUND | | 32,650 | Insert new items following Item 22: | |
| TREASURER'S MANAGEMENT INFORMATION | | | HEALTH AND REHABILITATIVE SERVICES, | |
| CENTER | | | DEPARTMENT OF | |
| OPERATING CAPITAL OUTLAY | | | DEPUTY SECRETARY FOR OPERATIONS | |
| FROM WORKING CAPITAL TRUST FUND | 0 | 1,179,750 | CHILD SUPPORT ENFORCEMENT | |
| Insert the following proviso after Item: | | | 22A SALARIES AND BENEFITS | |
| From the funds provided in Specific Appropriation through , | | | FROM ADMINISTRATIVE TRUST | |
| \$2,087,428 and seven positions from the Insurance Commissioner's Trust | | | FUND | |
| fund, \$178,000 from the Fire College Trust Fund, and \$1,179,750 from | | | 61,309 | |
| the Working Capital Trust Fund are contingent on legislation becoming | | | 22B EXPENSES | |
| law which increases revenues deposited into the Insurance Commission- | | | FROM ADMINISTRATIVE TRUST | |
| er's Regulatory Trust Fund by at least \$2,087,428 and increases revenues | | | FUND | |
| deposited into the Fire College Trust Fund by at least \$178,000. | | | 115,812 | |
| Senator Gardner moved the following amendment which was adopted: | | | 22C PURCHASE OF SERVICES - | |
| Amendment 5— | | | CHILD SUPPORT ENFORCEMENT | |
| SECTION 01 | STRIKE: | INSERT: | FROM ADMINISTRATIVE TRUST | |
| PAGE 11 | | | FUND | |
| Insert after Specific Appropriation 47: | | | 341,122 | |
| NATURAL RESOURCES, DEPARTMENT OF | | | Insert the following proviso after Item 22C: | |
| MARINE RESOURCES, DIVISION OF | | | From the funds provided in Specific Appropriations 22A, 22B, and 22C, | |
| SALARIES AND BENEFITS | POS. | 1 | \$518,243 from the Administrative Trust Fund is provided for restoration | |
| FROM SAVE THE MANATEE | | | of General Revenue Fund budget reductions of Child Support Enforce- | |
| TRUST FUND | | 27,984 | ment activities in the Districts. | |
| OTHER PERSONAL SERVICES | | | Amendment 7— | |
| FROM SAVE THE MANATEE | | | SECTION 01 | |
| | | | PAGE 10 | |
| | | | ITEM 44A | |
| | | | Immediately after Specific Appropriation 44, insert: | |
| | | | JUDICIAL BRANCH | |
| | | | STATE ATTORNEYS | |

SECOND JUDICIAL CIRCUIT

44A SALARIES AND BENEFITS
FROM GENERAL REVENUE FUND 100,000

ELEVENTH JUDICIAL CIRCUIT

44B SALARIES AND BENEFITS
FROM GENERAL REVENUE FUND (\$100,000)

Amendment 8—

SECTION 01 STRIKE: INSERT:
PAGE 10
ITEM 44A

Immediately after Specific Appropriation 44, insert:

JUDICIAL BRANCH
STATE ATTORNEYS

ELEVENTH JUDICIAL CIRCUIT

44A SALARIES AND BENEFITS
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND 80,000

44B EXPENSES
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND (55,459)

44C OPERATING CAPITAL OUTLAY
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND (18,000)

Senator Burt moved the following amendment which was adopted:

Amendment 9—

SECTION 01 STRIKE: INSERT:
PAGE 11
ITEM 52A

Insert new items following Item 52:

VETERANS' AFFAIRS, DEPARTMENT OF

52A SALARIES AND BENEFITS POS. 10
FROM GENERAL REVENUE FUND 99,936

52B EXPENSES
FROM GENERAL REVENUE FUND 24,891

52C OPERATING CAPITAL OUTLAY
FROM GENERAL REVENUE FUND 42,170

And insert proviso following Specific Appropriation 52C:

From the funds provided in Specific Appropriations 52A, 52B, and 52C, \$166,997 of recurring general revenue is provided to fund 10 positions to staff the Veterans Nursing Home of Florida in Daytona Beach and are contingent upon SB 166-H or similar legislation becoming law.

Senator Gardner moved the following amendments which were adopted:

Amendment 10—

SECTION 01 STRIKE: INSERT:
PAGE 01
ITEM 01

Immediately following Corrections, Department of

OFFICE OF THE SECRETARY AND OFFICE

OF MANAGEMENT AND BUDGET

1NEW SPECIAL CATEGORIES
CONTRACT FOR OPERATION OF
CORRECTIONAL INSTITUTIONS
FROM GENERAL REVENUE FUND (7,272,406)

And delete proviso following Specific Appropriation
317A of SB 140-H, as amended.

ASSISTANT SECRETARY FOR HEALTH
SERVICES

1A SALARIES AND BENEFITS POS. 74
FROM GENERAL REVENUE FUND \$655,164

1B EXPENSES
FROM GENERAL REVENUE FUND \$282,514

1C OPERATING CAPITAL OUTLAY
FROM GENERAL REVENUE FUND \$152,392

1D SPECIAL CATEGORIES
COMMUNITY HOSPITAL COSTS
FROM GENERAL REVENUE FUND \$72,210

MAJOR INSTITUTIONS

2A SALARIES AND BENEFITS POS. 598
FROM GENERAL REVENUE FUND \$4,493,034

2B EXPENSES
FROM GENERAL REVENUE FUND \$1,159,260

2C OPERATING CAPITAL OUTLAY
FROM GENERAL REVENUE FUND \$233,064

2D FOOD PRODUCTS
FROM GENERAL REVENUE FUND \$167,688

2E SPECIAL CATEGORIES
SALARY INCENTIVE PAYMENTS
FROM GENERAL REVENUE FUND \$57,080

Amendment 11—SECTION 03
PAGE 15

Insert a new Section 3 as follows:

SECTION 3. The Board of Regents of the State University System is hereby authorized to construct the following projects which are to be financed from revenue bonds issues pursuant to s. 11(e), Art. VII of the State Constitution:

- (1) Florida International University construction of housing facilities which may be partially financed from revenue bonds not to exceed \$12,000,000 including the amount authorized in SB 140-H, as amended.
- (2) Florida International University purchase of University Park Dormitory Facility, currently under lease-purchase agreement, which may be partially financed from revenue bonds in a amount not to exceed \$11,500,000.

Renumber subsequent sections.

Senator Childers moved the following amendment which was adopted:

Amendment 12—

SECTION 01 STRIKE: INSERT:
PAGE 11
ITEM 46

DEPARTMENT OF LAW ENFORCEMENT

DIVISION OF CRIMINAL INVESTIGATIONS

46A SPECIAL CATEGORIES
ACQUISITION OF MOTOR VEHICLES
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND 322,000

Community Care for
the Elderly 1,104,314

Elderly Meals 11,210

TOTAL 1,115,524

DIVISION OF CRIMINAL JUSTICE STANDARDS
AND TRAINING

46B OTHER PERSONAL SERVICES
FROM ADMINISTRATIVE TRUST FUND 133,800

This appropriation is contingent on Senate Bill 88-H becoming law.

The vote was:

Yeas—13 Nays—20

Amendment 15—DIVISION OF CRIMINAL JUSTICE INFORMATION
SYSTEMS

46C EXPENSES
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND 20,610

SECTION 01 STRIKE: INSERT:
PAGE 8
ITEM 22A

Insert new item following Item 22:

46D OPERATING CAPITAL OUTLAY
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND 385,000

HEALTH AND REHABILITATIVE
SERVICES, DEPARTMENT OF
HEALTH SERVICES

DIVISION OF LOCAL LAW ENFORCEMENT ASSISTANCE

46E EXPENSES
FROM FORFEITURE AND INVESTIGATIVE
SUPPORT TRUST FUND 190,182

22A LUMP SUM - SOCIAL
SERVICES RESTORATIONS
FROM GENERAL REVENUE FUND 14,828,225

Insert proviso following Specific Appropriations 22A:

Senators Margolis and Meek offered the following amendment which
was moved by Senator Meek and failed:

Amendment 13—

SECTION 01 STRIKE: INSERT:
PAGE 2
ITEM 4

4 AID TO LOCAL GOVERNMENTS GRANTS
AND AIDS - FLORIDA EDUCATIONAL
FINANCE PROGRAM
FROM GENERAL REVENUE FUND 100,000,000 202,100,000

Adjust the base student allocation in the last line of the last paragraph of
proviso following Specific Appropriation 4.

Add the following new paragraph of proviso following Specific Appropria-
tion 4:

From the funds appropriated in Specific Appropriation 4, \$102,100,000 is
contingent upon Senate Bill 88-H or similar legislation becoming law.

The vote was:

Yeas—15 Nays—22

Senator Davis moved the following amendments which failed:

Amendment 14—

SECTION 01 STRIKE: INSERT:
PAGE 6
ITEM 14A

Insert new item following Item 14:

ELDER AFFAIRS, DEPARTMENT OF

14A LUMP SUM - SOCIAL
SERVICES RESTORATIONS
FROM GENERAL REVENUE FUND 1,115,524

Insert proviso following Specific Appropriation 14A:

From the funds provided in Specific Appropriation 14A, funds shall be
provided to the Department of Elder Affairs in the following allocation:

Florida Small Business
Health Access Corp. 1,800,000
Area Health Education
Centers 500,000
Ounce of Prevention 1,500,000
Contracted Services 8,102
Maternal and Child
Health Services 50,231
Family Planning 169,803
AIDS Patient Care 12,622
County Health Units 2,267,403
School Health Services 3,000,000
Drugs, Vaccine, and
Biologicals 583,606
Rural Health 18,125
Kidney Disease 18,333

Early Childhood
Immunizations 4,900,000
TOTAL 14,828,225

This appropriation is contingent on Senate Bill 88-H becoming law.

The vote was:

Yeas—11 Nays—22

Amendment 16—

SECTION 01 STRIKE: INSERT:
PAGE 8
ITEM 22A

Insert new item following Item 22:

HEALTH AND REHABILITATIVE
SERVICES, DEPARTMENT OF
CHILDREN'S MEDICAL SERVICES

22A LUMP SUM - SOCIAL SERVICES
RESTORATIONS
FROM GENERAL REVENUE FUND 5,529,418

SPECIAL ORDER, continued

CS for HB 325-H—A bill to be entitled An act relating to taxation; creating s. 213.015, F.S.; providing requirements with respect to the rights, safeguards, and protections afforded taxpayers during tax assessment, collection, and enforcement processes; creating s. 213.018, F.S.; providing for a taxpayer problem resolution program; providing for a taxpayers' rights advocate with authority to issue taxpayer assistance orders; amending s. 213.21, F.S.; providing a taxpayer's right to have representation and record informal conferences; creating s. 213.025, F.S.; requiring the Department of Revenue to conduct its audits, inspections, and interviews at reasonable times and places, with exceptions; amending s. 213.34, F.S.; directing the department to offset overpayments against deficiencies; creating s. 213.731, F.S.; requiring notice before collection action is taken; providing a taxpayer's right to protest and seek a review; creating s. 213.732, F.S.; providing procedural requirements, taxpayers' rights, and venue for certain legal actions with respect to jeopardy findings and assessments; creating s. 213.733, F.S.; providing for cancellation, amendment, or modification of warrants; amending ss. 199.262, 206.075, 211.125, 211.33, 212.14, 212.15, 220.719, and 220.815, F.S.; specifying procedures applicable if jeopardy to the revenue exists and is asserted in or with an assessment; repealing s. 220.719(4), F.S., relating to taxpayer protest regarding a jeopardy assessment lien; amending s. 20.21, F.S.; creating within the department the position of taxpayers' rights advocate and providing his responsibilities; amending s. 72.011, F.S.; prohibiting certain legal actions when an action has been initiated under s. 120.575, F.S.; amending s. 95.091, F.S.; requiring the department to commence an audit within a specified period of time after it issues a notice of intent to conduct an audit; amending s. 120.575, F.S., which provides procedures and requirements applicable when a taxpayer contests specified taxes, interest, penalties, or denials of refund; removing provisions which specify requirements applicable to proceedings involving tax on the sale or use of services; specifying conditions under which collection and enforcement of contested amounts is stayed; providing for recovery of legal costs, including attorney's fees; amending ss. 57.111 and 120.57, F.S., to conform; repealing s. 120.65(5), F.S., which provides for hearing officer panels for proceedings involving tax on the sale or use of services; amending s. 199.032, F.S.; increasing the rate of the annual intangible personal property tax; repealing s. 199.104, F.S., which provides for a credit against the annual tax for banks and savings associations; amending s. 199.185, F.S.; revising the amount of exemptions from the annual tax and providing an exemption for banks and savings associations; amending s. 199.292, F.S.; revising the disposition of such taxes; repealing s. 220.68, F.S., which provides a credit against the franchise tax based on intangible tax paid; amending s. 220.02, F.S., to conform; creating s. 199.106, F.S.; providing a credit against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of such taxes and severability; amending s. 220.13, F.S.; revising the definition of "adjusted federal income" for corporate income tax purposes to include a portion of interest deducted in computing federal taxable income; providing transitional provisions regarding estimated tax payments; amending s. 220.02, F.S.; revising legislative intent with respect to corporate income tax; amending s. 220.03, F.S.; including limited partnerships within the definition of "corporation" for purposes of said tax; amending s. 220.13, F.S.; providing for an additional adjustment in taxable income for limited partnerships; revising the definition of "taxable income" as applied to certain corporations; defining "taxable income" for purposes of limited partnerships; providing a limitation on acquisitions that may be deemed property by limited partnerships or S corporations after a specified date; providing for taxation of all income realized by limited partnerships or S corporations after a specified date; providing transitional provisions regarding estimated tax payments; creating s. 212.056, F.S.; amending s. 220.131, F.S.; providing for consolidated returns for certain limited partnerships; providing for levy of the tax on sales, use, and other transactions on the sale and use of certain services; providing for collecting and remitting thereof; requiring multistate purchasers that self-accrue the tax to file an annual supplementary tax return; creating s. 212.0561, F.S.; providing rules of construction with respect to said tax; creating s. 212.0562, F.S., providing exemptions from said tax; creating s. 212.0563, F.S.; providing for administration of the exemption for services sold in this state for use outside this state; providing for exempt purchase permits and affidavits; requiring dealers to maintain monthly logs; providing a penalty; providing for refunds; amending s. 212.02, F.S.; providing definitions applicable to the tax on services; specifying conditions under which sale of a service is considered a sale for resale; specifying

| | |
|----------------------------|------------------|
| Abused/Neglected Children | 372,689 |
| Primary Care Program | 93,760 |
| Infant Toddler Step Down | 26,456 |
| Infant Hearing Screening | 16,913 |
| Children's Cardiac Program | 19,600 |
| RPICC Developmental | |
| Evaluation & Intervention | |
| Program | 5,000,000 |
| TOTAL | 5,529,418 |

The vote was:

Yeas—11 Nays—21

Amendment 17—

SECTION 01 STRIKE: INSERT:
PAGE 6
ITEM 14A

Insert new item following Item 14:

HEALTH AND REHABILITATIVE
SERVICES, DEPARTMENT OF
ECONOMIC SERVICES

| | | |
|-----|---|-----------|
| 14A | LUMP SUM - SOCIAL SERVICES RESTORATIONS | |
| | FROM GENERAL REVENUE FUND | 2,725,713 |

Insert proviso following Specific Appropriation 14A:

From the funds provided in Specific Appropriation 14A, funds shall be provided to the Department of Health and Rehabilitative Services in the following allocation:

| | |
|--|------------------|
| Emergency Financial Assistance Housing Program | 2,433,477 |
| Project Independence Child Care System | 125,000 |
| Project Independence Support Services | 167,236 |
| TOTAL | 2,725,713 |

This appropriation is contingent on Senate Bill 88-H becoming law.

The vote was:

Yeas—12 Nays—19

On motion by Senator Jenne, further consideration of **CS for SB 268-H** as amended was deferred.

RECESS

On motion by Senator Johnson, the Senate stood in informal recess at 8:04 p.m.

EVENING SESSION

CALL TO ORDER

The Senate was called to order by the President at 8:28 p.m. A quorum present.

those activities included within the meaning of "services"; amending s. 212.05, F.S.; imposing a tax on the sale, use, consumption, or storage of certain coins and currency; amending ss. 212.03, 212.61, 203.01, and 790.0655, F.S.; correcting references; amending ss. 212.054, 212.0598, 212.06, 212.07, 212.12, and 212.21, F.S., relating to discretionary sales surtaxes, special provisions relating to air carriers, dealers and collection of tax, penalties for violation, enforcement, and intent regarding exemptions, to include the tax on services; amending s. 212.08, F.S.; including the sale of services in the exemption for churches; amending s. 212.11, F.S.; revising provisions relating to quarterly returns and authorizing quarterly returns for dealers registered as service providers under certain circumstances; amending s. 212.183, F.S.; authorizing the Department of Revenue to provide by rule for self-accrual of tax for purchasers of services; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; amending s. 212.08, F.S.; revising qualifications for the sales tax exemptions for business property and electrical energy used in an enterprise zone; amending s. 220.182, F.S.; revising qualifications for the enterprise zone property tax credit; amending s. 290.0055, F.S.; revising the calculation for the determination of the total population of all areas authorized to be enterprise zones in certain counties; amending s. 212.055, F.S.; extending the authority of counties to levy the local government infrastructure sales surtax for an additional period, contingent on the rejection of a specified constitutional amendment; amending s. 212.02, F.S.; defining "sea trial"; amending s. 212.05, F.S.; revising requirements and conditions relating to the sales tax exemption provided for boats and airplanes removed from the state after purchase; amending s. 212.08, F.S.; revising requirements and conditions relating to the sales tax exemption provided for boats temporarily docked in the state; amending s. 212.06, F.S.; providing a presumption with respect to when boats are considered commingled with the general mass of property of the state; amending s. 561.025, F.S.; providing for the deposit of proceeds of the surtax on beverage license fees into the Alcoholic Beverage and Tobacco Trust Fund; amending s. 561.342, F.S.; providing for deduction of a service charge from county and municipal beverage license tax revenues; amending ss. 563.02, 564.02, and 565.02, F.S.; increasing the license fees for vendors of alcoholic beverages sold for consumption on the premises; increasing the license fees for certain clubs and pari-mutuel facilities; amending ss. 563.025 and 564.025, F.S.; increasing the surtax imposed on license fees for vendors of certain alcoholic beverages and wines; creating s. 565.025, F.S.; imposing a surtax on the license fees of vendors of alcoholic beverages licensed under ch. 565, F.S., including certain clubs and pari-mutuel facilities; creating s. 400.34, F.S.; imposing an assessment on nursing home facilities; providing definitions, exemptions, and fines; providing for the responsibility when ownership is transferred; amending s. 206.9855, F.S., providing for refund on aviation fuel used on international flights; providing for procedures and penalty; amending s. 206.9825, F.S., disallowing refunds to air carriers making certain elections; providing for an appropriation; providing for emergency rules; specifying administrative provisions applicable to other implementing rules; exempting the department from provisions regulating the procurement of property and services for a specified period; providing effective dates.

—was read the second time by title.

Senator Jenne moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 7, line 26 through page 126, line 3, strike all of said lines and insert:

Section 1. Effective October 1, 1992, subsection (11) is added to section 125.0104, Florida Statutes, as amended by section 3 of chapter 92-175, Laws of Florida, and section 1 of chapter 92-204, Laws of Florida, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(11) INTEREST PAID ON DISTRIBUTIONS.—

(a) Interest shall be paid on undistributed taxes collected and remitted to the Department of Revenue under this section. The interest shall be included along with the tax proceeds distributed to the counties and shall be paid from moneys transferred from the General Revenue Fund. The department shall calculate the interest for net tax distributions using the average daily rate that was earned by the State Treasury for the preceding calendar quarter and paid to the General Revenue Fund. This rate shall be certified by the Treasurer to the department by the 20th day following the close of each quarter.

(b) The interest applicable to taxes collected under this section shall be calculated by multiplying the tax amounts to be distributed times the daily rate times the number of days after the 3rd working day following the date the tax is due and payable pursuant to s. 212.11 until the date the department issues a voucher to request the Comptroller to issue the payment warrant. The warrant must be issued within 7 days after the request.

(c) If an overdistribution of taxes is made by the department, interest shall be paid on the overpaid amount beginning on the date the warrant including the overpayment was issued until the 3rd working day following the due date of the payment period from which the overpayment is being deducted. The interest on an overpayment shall be calculated using the average daily rate from the applicable calendar quarter and shall be deducted from moneys distributed to the county under this section.

Section 2. Beginning with the 1992-1993 fiscal year, the state or any local governmental entity that administers a local option tax under section 125.0104, section 125.0108, section 212.0305, section 212.055, section 336.021, or section 336.025, Florida Statutes, or under chapter 83-220, Laws of Florida, and that is authorized to deduct a portion of the tax proceeds to cover the costs of administering the tax shall, within 60 days after the close of each fiscal year, provide the levying authority, the Legislature, and the agency, authority, board, or other governmental entity that is the principal recipient of the tax proceeds, if other than the levying authority, a report enumerating the amounts of proceeds of the tax that are withheld, deducted, or otherwise redirected from the principal recipient, and the purpose of such withholding, deduction, or redirection. This section expires January 1, 1995.

Section 3. Subsections (1), (2), and (3) of section 154.235, Florida Statutes, are amended to read:

154.235 Refunding bonds.—

(1) The authority is hereby authorized to provide for the issuance of revenue bonds for the purpose of refunding any ~~of its~~ revenue bonds or other debt obligations issued in connection with a project and then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such revenue bonds or other debt obligations.

(2) The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds or other debt obligations may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds or other debt obligations either on their earliest or any subsequent redemption date, or upon the purchase or at the maturity thereof, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(3) Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States, in any obligations of which the principal and interest are unconditionally guaranteed by the United States, in certificates of deposit or time deposits secured by direct obligations of the United States, or in any obligations of which the principal and interest are unconditionally guaranteed by the United States, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding revenue bonds or other debt obligations to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds or other debt obligations to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

Section 4. Effective January 1, 1993, section 193.023, Florida Statutes, is amended to read:

193.023 Duties of the property appraiser in making assessments.—

(1) The property appraiser shall complete his assessment of the value of all property no later than July 1 of each year, except that the department may for good cause shown extend the time for completion of assessment of all property.

(2) In making his assessment of the value of real property, the property appraiser is required to inspect physically the property every 3 years to ensure that his tax roll meets all the requirements of law. However, he shall physically inspect any parcel of taxable real property upon the request of the taxpayer or owner.

(3) In revaluating property in accordance with constitutional and statutory requirements, the property appraiser may adjust the assessed value placed on any parcel or group of parcels based on mass data collected, on ratio studies prepared by an agency authorized by law, or pursuant to regulations of the Department of Revenue.

(4) In making his assessment of leasehold interests in property serving the unit owners of a condominium or cooperative subject to a lease, including property subject to a recreational lease, the property appraiser shall assess the property at its fair market value without regard to the income derived from the lease.

(5) In assessing any parcel of a condominium or any parcel of any other residential development having common elements appurtenant to the parcels, if such common elements are owned by the condominium association or owned jointly by the owners of the parcels, the assessment shall apply to the parcel and its fractional or proportionate share of the appurtenant common elements.

(6) In making assessments of cooperative parcels, the property appraiser shall use the method required by s. 719.114.

(7) *When considering the factors in s. 193.011 to assess real property, the property appraiser must use sales data as the primary measure of just valuation when such data is available and can be used in accordance with generally accepted appraisal standards and procedures.*

Section 5. Subsection (4) of section 193.085, Florida Statutes, is amended to read:

193.085 Listing all property.—

(4) The department shall ~~adopt promulgate such rules as are necessary~~ to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may ~~use~~ utilize the prior year's values for such property.

(a) All railroad and railroad terminal companies maintaining tracks or other fixed assets in the state and subject to assessment under the unit-rule method of valuation shall make an annual return to the Department of Revenue. Such returns shall be filed on or before April 1 and shall be subject to the penalties provided in s. 193.072. The department shall make an annual assessment of all operating property of every description owned by or leased to such companies. Such assessment shall be apportioned to each county, based upon actual situs and, in the case of property not having situs in a particular county, shall be apportioned based upon track miles. Operating property shall include all property owned or leased to such company, including right-of-way presently in use by the company, track, switches, bridges, rolling stock, and other property directly related to the operation of the railroad. Nonoperating property shall include that portion of office buildings not used for operating purposes, property owned but not directly used for the operation of the railroad, and any other property that is not used for operating purposes. The department shall ~~adopt promulgate rules necessary~~ to ensure that all operating property is properly valued, apportioned, and returned to the appropriate county, including rules governing the form and content of returns. The evaluation and assessment of utility property shall be the duty of the property appraiser.

(b)1. All private car and freight line and equipment companies operating rolling stock in Florida shall make an annual return to the Department of Revenue. The department shall make an annual determination of the average number of cars habitually present in Florida for each company and shall assess the just value thereof.

2. The department shall ~~adopt promulgate~~ rules respecting the methods of determining the average number of cars habitually present in Florida, the form and content of returns, and such other rules as are necessary to ensure that the property of such companies is properly returned, valued, and apportioned to the state.

3. For purposes of this paragraph, "operating rolling stock in Florida" means having ownership of rolling stock which enters Florida.

4. The department shall apportion the assessed value of such property to the local taxing jurisdiction based upon the number of track miles and the location of mainline track of the respective railroads over which the rolling stock has been operated in the preceding year in each taxing jurisdiction. The situs for taxation of such property shall be according to the apportionment.

(c) The values determined by the department pursuant to *this subsection* ~~subsections (4) and (5)~~ shall be certified to the property appraisers when such values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) *In any action challenging final assessed values certified by the Department of Revenue under this subsection, venue is in Leon County. This paragraph applies to all actions pending on or filed after January 1, 1991.*

Section 6. Effective January 1, 1993, subsection (1) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(1) Each assessment roll shall be submitted to the executive director of the Department of Revenue for review in the manner and form prescribed by the department on or before July 1. The roll submitted to the department need not contain centrally assessed properties prior to approval under this subsection and subsection (2). Such review by the executive director shall be made to determine if the rolls meet all the appropriate requirements of law relating to form and just value. *In conducting reviews, sales data shall be used to the greatest extent possible.* Upon approval of the rolls by the executive director or his designee, the hearings required in s. 194.032 may be held.

Section 7. Effective January 1, 1993, section 195.096, Florida Statutes, as amended by section 3 of chapter 92-32, Laws of Florida, is amended to read:

195.096 Review of assessment rolls.—

(1) The assessment rolls of each county shall be subject to review by the Division of Ad Valorem Tax.

(2) Beginning with the 1982 assessment rolls, the Division of Ad Valorem Tax shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. Such reviews need not include personal property tax rolls until 1983; however, such reviews shall include the 1982 personal property tax rolls if positions are provided therefor in the 1982-1983 budget. The Division of Ad Valorem Tax need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection (4)(3). Such in-depth review may include proceedings of the value adjustment board.

(a) The Division of Ad Valorem Tax shall, at least 30 days prior to the beginning of an in-depth review in any county, notify the property appraiser in the county of the pending review. At the request of the property appraiser, the Division of Ad Valorem Tax shall consult with the property appraiser regarding the classifications and strata to be studied, in order that the review will be useful to the property appraiser in evaluating his procedures.

(b) Every property appraiser whose upcoming roll is subject to an in-depth review shall, if requested by the department on or before January 1, deliver upon completion of the assessment roll a list of the parcel numbers of all parcels that did not appear on the assessment roll of the previous year, indicating the parcel number of the parent parcel from which each new parcel was created or "cut out."

(c) In conducting assessment ratio studies, the Division of Ad Valorem Tax must use a statistically reliable sample of properties in tests of each classification, stratum, or roll made the subject of a ratio study published by it. For purposes of this section, the division may use an assessment-to-sales-ratio study in conducting assessment ratio studies. The department shall compute the median and the value-weighted mean for each classification or subclassification studied and for the roll as a whole.

(d) In the conduct of these reviews, the Division of Ad Valorem Tax shall adhere to all standards to which the property appraisers are required to adhere.

(e) The Division of Ad Valorem Tax and each property appraiser shall cooperate in the conduct of these reviews, and each shall make available to the other all matters and records bearing on the preparation and computation of the reviews. The property appraisers shall provide any and all data requested by the Division of Ad Valorem Tax in the conduct of the studies, including electronic data processing tapes. Any and all data and samples developed or obtained by the Division of Ad Valorem Tax in the conduct of the studies shall be confidential and exempt from the provisions of s. 119.07(1) until a presentation of the findings of the study is made to the property appraiser. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. After the presentation of the findings, the Division of Ad Valorem Tax shall provide any and all data requested by a property appraiser developed or obtained in the conduct of the studies, including tapes. Direct reimbursable costs of providing the data shall be borne by the party who requested it. Copies of existing data or records, whether maintained or required pursuant to law or rule, or data or records otherwise maintained, shall be submitted within 30 days from the date requested, in the case of written or printed information, and within 14 days from the date requested, in the case of computerized information.

(f) Within 120 days following the receipt of a county assessment roll by the executive director of the department pursuant to s. 193.1142(1), or within 10 days after approval of the assessment roll, whichever is later, the Division of Ad Valorem Tax shall complete the review for that county and forward its findings, including a statement of the confidence interval for the median and such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, employing a 95-percent level of confidence, and related statistical and analytical details to the Senate Finance, Taxation, and Claims Committee; the House Finance and Taxation Committee; and the appropriate property appraiser.

(3) *In conducting biennial in-depth reviews of county assessment rolls, the Division of Ad Valorem Tax shall, to the greatest extent possible, use sales data in lieu of fee appraisal data. Using an electronic medium that is compatible with the medium used by the Division of Ad Valorem Tax, the property appraiser shall report to the division each real estate transfer within the county, the selling price as evidenced by documentary stamps, and any other information the division, by rule, requires. For disqualified transactions, the property appraiser must also submit an indication, in a manner prescribed by the division, of the reasons for such disqualification.*

(4)(3)(a) Upon completion of review pursuant to paragraph (2)(f), the Division of Ad Valorem Tax shall publish the results of reviews conducted pursuant to this section. The results shall include all statistical and analytical measures computed pursuant to this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes:

1. Single-family, condominium, cooperative, mobile home, and other owner-occupied residential property.
2. Residential income property.
3. Agricultural and other use-valued property.
4. Vacant lots.
5. Nonagricultural acreage and other undeveloped parcels.
6. Taxable institutional and governmental property.
7. Improved commercial property.
8. Improved industrial, utility, locally assessed railroad, oil, gas and mineral lands, subsurface rights, and other real property.

If there are fewer than 30 parcels in any property class, such parcels may be included with the parcels described in subparagraph 8. for purposes of sampling, conducting assessment ratio studies, and publishing results. The division shall also publish such results for any subclassifications of the above classes or assessment rolls it may have chosen to study. For each improved subclassification or property class and for the real property roll as a whole, the division shall also publish separate assessment ratio statistics for land valuations and for improvement valuations.

(b) When necessary for compliance with s. 236.081, and for those counties not being studied in the current year, the Division of Ad Valorem Tax shall project value-weighted mean levels of assessment for each county. The Division of Ad Valorem Tax shall make its projection based upon the best information available, ~~using~~ *utilizing* professionally accepted methodology, and shall separately allocate changes in total assessed value to:

1. New construction, additions, and deletions.
2. Changes in the value of the dollar.
3. Changes in the market value of property other than those attributable to changes in the value of the dollar.
4. Changes in the level of assessment.

In lieu of the statistical and analytical measures published pursuant to paragraph (a), the department shall publish details concerning the computation of estimated assessment levels and the allocation of changes in assessed value for those counties not subject to an in-depth review.

(5)(4) It is declared to be the legislative intent that approval of the rolls by the department pursuant to s. 193.1142 and certification by the value adjustment board pursuant to s. 193.122(1) shall not be deemed to impugn the use of postcertification reviews to require adjustments in the preparation of succeeding assessment rolls to ensure that such succeeding assessment rolls do meet the constitutional mandates of just value.

(6)(5) It is the legislative intent that the Division of Ad Valorem Tax ~~use~~ *utilize* to the fullest extent practicable objective measures of market value in the conduct of reviews pursuant to this section.

(7)(6) Reviews conducted pursuant to this section shall include an evaluation of whether nonhomestead exempt values determined by the appraiser pursuant to applicable provisions of chapter 196 are correct and whether agricultural classifications were granted in accordance with law.

(8)(7) The Auditor General shall have the responsibility to perform performance audits of the administration of ad valorem tax laws by the department pursuant to the general authority granted in chapter 11. Such performance audits shall be conducted biennially following completion of reviews pursuant to this section. The first performance audit conducted pursuant to this subsection shall be formally submitted to the Legislature no later than April 1, 1984, reporting on the activities of the Division of Ad Valorem Tax related to the 1982 and 1983 ad valorem tax rolls, and biennially thereafter. The Auditor General shall include, for at least four counties so reviewed, findings as to the accuracy of assessment procedures, projections, and computations made by the division, ~~using~~ *utilizing* the same generally accepted appraisal standards and procedures to which the division and the property appraisers are required to adhere. However, the report shall not include any findings or statistics related to any ad valorem tax roll which is in litigation between the state and county officials at the time the report is to be issued.

(9)(8) When a roll is prepared as an interim roll pursuant to s. 193.1145, the department shall compute assessment levels for both the interim roll and the final approved roll.

(10)(9) Chapter 120 ~~does~~ shall not apply to this section.

Section 8. The Department of Revenue shall develop a methodology for using sales data in conducting in-depth studies and annual reviews of county assessment rolls pursuant to sections 193.1142 and 195.096, Florida Statutes. A plan to implement this methodology must be prepared by the Department of Revenue and such plan must provide for the disqualification of sales data by the department. The plan must also include recommendations for reallocating resources of the Division of Ad Valorem Tax which reflect the reduction in the division's workload as a result of the increased reliance on sales data as opposed to fee appraisal data. The plan must be completed by July 1, 1993, and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 9. Effective January 1, 1993, subsection (3) of section 199.062, Florida Statutes, is amended to read:

199.062 Annual tax information reports.—

(3) On or before June 30 of each year, all security ~~dealers and investment advisers brokers~~ registered under the laws of this state shall file with the department a position statement as of December 31 of the pre-

ceding year for each customer whose mailing address is within the state or a statement that the security dealer or investment adviser does not hold securities on account for its customers with mailing addresses in this state. The position ~~Such~~ statement shall include the customer's name, address, social security number, or federal identification number; the number of units, value, and description, including the Committee on Uniform Security Identification Procedures (CUSIP) number, if any, of all securities held for the customer; and such other information as the department may reasonably require. The information required by this subsection shall be reported by the dealer or investment adviser ~~a broker~~ on magnetic media, using specifications and instructions of the department, unless the dealer or investment adviser ~~broker~~ demonstrates that an undue hardship exists.

Section 10. Effective January 1, 1993, subsection (6) of section 199.282, Florida Statutes, is amended to read:

199.282 Penalties for violation of this chapter.—

(6) A Late reporting ~~penalties~~ ~~penalty~~ of \$100 shall be imposed as follows:

(a) A penalty of \$100 upon any corporation which does not timely file a written notice required under s. 199.057(2)(c) or s. 199.062(2).

(b) An initial penalty of \$10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or \$50 for each month or portion of a month, from the date due until filing is made, upon any security dealer or investment adviser who ~~broker~~ ~~which~~ does not timely file or fails to file the position statements required by s. 199.062(3). The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is \$100.

Section 11. Section 199.106, Florida Statutes, is created to read:

199.106 Credit for taxes imposed by other states.—

(1) For intangible personal property that has been deemed to have a taxable situs in this state solely pursuant to s. 199.175(2) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property that is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(2) For intangible personal property that has a taxable situs in this state under s. 199.175(1) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer, other than a natural person, in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia when the other taxing authority is also claiming situs under provisions similar or identical to those in s. 199.175(1) or any similar predecessor statute. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property which is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(3) The credits provided by subsections (1) and (2) apply retroactively to December 31, 1979. However, notwithstanding the retroactivity of these credit provisions, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 12. Section 199.303, Florida Statutes, is created to read:

199.303 Declaration of legislative intent.—

(1) If any section, subsection, sentence, clause, phrase, or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconsti-

tutionality shall not affect the portions of this chapter not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable, or void portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective, or void portions of this chapter, the Legislature would have enacted the valid and constitutional portions thereof.

(2) It is hereby declared to be the specific legislative intent to tax all intangible personal property that may constitutionally be taxed subject only to the exemptions and credits allowed by law. However, if any application of these statutes is declared unconstitutional, the taxes imposed shall nevertheless remain in force, but only to the extent permitted by the constitution of this state and of the United States.

Section 13. Present subsection (3) of section 201.022, Florida Statutes, as amended by section 10 of chapter 92-32, Laws of Florida, is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; failure to file does not impair validity.—

(3) If the return required by this section is not executed and filed, the clerk of the circuit court shall execute and file the return with the department. The clerk shall be compensated 1 percent of the value of the stamps sold as the cost of processing the return required by this section in the form of a deduction from the amount of the tax due and remitted by him, and the department shall allow the deduction to the clerk paying and remitting the tax in the manner provided for by the department. However, a deduction or allowance may not be granted if there is a manifest failure to maintain proper records or make proper reports. The compensation provided in this subsection is in addition to that provided in s. 201.11(2).

Section 14. Paragraph (e) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(e)1. At the rate of 6 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on all charges for any television system program service; on all charges for the installation of telecommunication and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this part, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, reconnecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. For purposes of this part and s. 365.171, pay telephone service is not subject to assessment of fees for 911 services. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

Section 15. Section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section, *the term*:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, ~~beginning January 1, 1992,~~ the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, plus any applicable local option tax authorized by this part, expressed as a decimal. *However, the amount of the tax to be paid on natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products; natural fruit juices; or natural vegetable juices shall be calculated using the divisor that is specified for food items.*

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed a notice to each vending machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his *sales tax registration social security* number. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUS-

TOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE ALL VIOLATIONS TO (TOLL-FREE TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county. ~~The report shall first be filed for the quarter ending December 31, 1991.~~

(b) A penalty of \$250 per machine is imposed on the operator *who fails for failing* to properly obtain and display the required notice on any machine. A penalty of \$250 is imposed on the operator *who fails for failing* to timely file a quarterly report *or who files false information*. Such Penalties shall accrue interest as provided for delinquent taxes under this part and shall apply in addition to all other applicable taxes, interest, and penalties.

(c) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(5)(a) Any person who sells food or beverages *to an operator* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator *described in paragraph (b)* who has purchased such items from said person and states the *net gross* dollar amount of purchases made by each operator from said person. ~~The report shall first be filed for the quarter ending December 31, 1991.~~ In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 25 50 cases or more.

(b) Each ~~dealer or operator who purchases~~ *purchasing* food or beverages for resale *in vending machines* shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state *that whether or not* the purchaser is a vending machine operator. The certificate shall initially be provided ~~by November 1, 1991, or upon the first transaction between the parties, whichever is later,~~ and by November 1 of each year thereafter.

(c) A penalty of \$250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so *or who files false information*. A penalty of ~~\$250~~ \$5,000 is imposed on any operator who fails to comply with the requirements of this subsection *or who provides the dealer with false information*. ~~A penalty of \$250 for such failure shall apply to other dealers who are not operators of vending machines.~~ Such Penalties shall accrue interest as provided for delinquent taxes under this part and shall apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules necessary to administer the provisions of this section *and may establish a schedule for phasing in the requirement that existing notices be replaced with revised notices displayed on vending machines.*

Section 16. Contingent on the rejection by vote of the electors at the general election in November 1992, of a constitutional amendment that proposes an amendment to section 9 of Article VII of the State Constitution which authorizes a municipality or county to levy, pursuant to referendum, a 1-cent sales tax for the purpose of funding local governmental services, paragraphs (a) and (g) of subsection (2) of section 212.055, Florida Statutes, as amended by section 1 of chapter 91-423, Laws of Florida, and section 148 of chapter 92-279, Laws of Florida, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. ~~No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.~~

(g) No referendum proposing the levying of such surtax shall be held after November 30, 1994 1992.

Section 17. Paragraph (i) of subsection (3) of section 212.055, Florida Statutes, as amended by section 1 of chapter 91-423, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(3) INDIGENT CARE SURTAX.—

(i) *No county, other than any county as defined in s. 125.011(1), may levy the tax authorized in this subsection after This subsection is repealed on October 1, 1998.*

Section 18. Section 3 of chapter 91-81, Laws of Florida, is repealed.

Section 19. Paragraph (e) of subsection (5) of section 212.08, Florida Statutes, as amended by section 3 of chapter 92-113, Laws of Florida, section 1 of chapter 92-164, Laws of Florida, section 1 of chapter 92-168, Laws of Florida, and section 2 of chapter 92-206, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(e) Gas used for certain agricultural purposes.—Butane gas, propane gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use. ~~This exemption shall inure to the taxpayer only through refund of previously paid taxes. Refunds under this paragraph shall be authorized and administered as provided in s. 212.67.~~

Section 20. Subsection (2) of section 213.053, Florida Statutes, as amended by section 17 of chapter 92-138, Laws of Florida, and section 4 of chapter 92-146, Laws of Florida, is amended, and subsections (16) and (17) are added to that section, to read:

213.053 Confidentiality and information sharing.—

(2) Except as provided in subsections (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), ~~and (15), (16), and (17)~~, all information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and including letters of technical advice, is confidential except for official purposes and is exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), subsection (9), subsection (10), subsection (11), subsection (12), subsection (13), subsection (14), ~~or subsection (15), subsection (16), or subsection (17)~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(16) *The department may provide to the person against whom transferee liability is being asserted pursuant to s. 212.10(1) information relating to the basis of the claim.*

(17) *The department may disclose to a person entitled to compensation pursuant to s. 213.30 the amount of any tax, penalty, or interest collected as a result of information furnished by such person.*

Section 21. Effective October 1, 1992, section 213.0535, Florida Statutes, is created to read:

213.0535 Registration Information Sharing and Exchange Program.—

(1) The Registration Information Sharing and Exchange Program, or "RISE," is established, to be coordinated by the Department of Revenue. Each participant in the program shall share the tax administration information specified in this section on a periodic basis in the format prescribed by the department. To the fullest extent practicable, the information must be shared on a computer-processable medium.

(2) Information that is subject to sharing includes the registrant's, licensee's, or taxpayer's name, mailing address, business location, federal employer identification number or social security number, any applicable business type code, any applicable county code, and such other tax registration information as the department prescribes.

(3) Each local government that participates in the program is responsible for transmitting its shared data to participating state agencies. Each state agency participating in the program is responsible for transmitting its shared data to the other participating state agencies and to the appropriate participating local governments. Data shall be transmitted within 20 days after the close of the reporting period.

(4) There are two levels of participation:

(a) Each unit of state and local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level one participant. Level one participants shall exchange, monthly, the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.
2. The tourist development tax imposed under s. 125.0104.
3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.
5. Convention development taxes imposed under s. 212.0305.
6. Public lodging and food service establishment licenses issued under chapter 509.
7. Beverage law licenses issued under chapter 561.

(b) Level two participants include the Department of Revenue and local officials responsible for collecting the tourist development tax pursuant to s. 125.0104, the tourist impact tax pursuant to s. 125.0108, or a convention development tax pursuant to s. 212.0305. Level two participants shall, in addition to the data shared by level one participants, exchange data relating to tax payment history, audit assessments, and registration cancellations of dealers engaging in transient rentals, and such data shall relate only to sales and use taxes, tourist development taxes, and convention development taxes. The department shall prescribe, by rule, the data elements to be shared and the frequency of sharing; however, audit assessments must be shared at least quarterly.

(5) Any provision of law imposing confidentiality upon data shared under this section, including, but not limited to, any provision imposing penalties for disclosure, applies to recipients of this data and their employees. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Data exchanged under this section may not be provided to any person or entity other than those administering the tax or licensing provisions of those provisions of law enumerated in paragraph (4)(a), and such data may not be used for any purpose other than for enforcing those tax or licensing provisions.

(6) In addition to data on new registrants, the information shared by level one participants in the first month of the program shall include data for all active registrants, taxpayers, licensees, or permittees under the provisions of law enumerated in paragraph (4)(a).

Section 22. Subsections (1) and (5) of section 213.27, Florida Statutes, are amended to read:

213.27 Contracts with debt collection agencies.—

(1) The Department of Revenue may, for the purpose of collecting any ~~delinquent~~ taxes due from a taxpayer, contract with any debt collection agency or attorney doing business within or without this state for the collection of such ~~delinquent~~ taxes including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of ~~delinquent~~ taxes. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by ~~certified~~ mail by the department, its employees, or its authorized representative 30 days prior to commencing any litigation to recover any ~~delinquent~~ taxes. The taxpayer must be notified by ~~certified~~ mail by the department 30 days prior to the department assigning the collection of any ~~delinquent~~ taxes to the debt collection agency.

(5) The department may, for the purpose of ascertaining the amount of or collecting any ~~delinquent~~ taxes due from a person doing mail order business in this state, contract with any auditing agency doing business within or without this state for the purpose of conducting an audit of such mail order business; however, such audit agency may not conduct an audit on behalf of the department of any person domiciled in this state, person registered for sales and use tax purposes in this state, or corporation filing a Florida corporate tax return, if any such person or corporation objects to such audit in writing to the department and the auditing agency. The department shall notify the taxpayer by ~~certified~~ mail at least 30 days before the department assigns the collection of such ~~delinquent~~ taxes to the debt collection or auditing agency.

Section 23. Paragraph (a) of subsection (1) of section 216.262, Florida Statutes, as amended by section 68 of chapter 92-142, Laws of Florida, and section 89 of chapter 92-279, Laws of Florida, is amended to read:

216.262 Authorized positions.—

(1)(a) Unless otherwise expressly provided by law, the total number of authorized positions may not exceed the total provided in the appropriations acts. In the event any state agency or entity of the judicial branch finds that the number of positions so provided is not sufficient to administer its authorized programs, it may file an application with the Executive Office of the Governor or the Chief Justice; and, if the office or Chief Justice certifies that there are no authorized positions available for addition, deletion, or transfer within the agency as provided in paragraph

(c) and recommends an increase in the number of positions, the commission or the Chief Justice may, after a public hearing, authorize an increase in the number of positions for the following reasons only:

1. To implement or provide for continuing federal grants or changes in grants not previously anticipated;
2. To meet emergencies pursuant to s. 252.36;
3. To satisfy new federal regulations or changes therein;
4. To take advantage of opportunities to reduce operating expenditures or to increase the revenues of the state or local government; and
5. To authorize positions which were not fixed by the Legislature through error in drafting the appropriations acts.

The provisions of this paragraph are subject to the notice and review procedures set forth in s. 216.177. A copy of the application, the certification, and the final authorization shall be filed with the legislative appropriations committees and with the Auditor General.

Section 24. Effective upon this act becoming a law, and operating retroactively to January 1, 1992, paragraphs (a) and (b) of subsection (2) of section 624.5092, Florida Statutes, are amended to read:

624.5092 Administration of taxes; payments.—

(2)(a) Installments of the taxes to which this section is applicable shall be due and payable on April 15, June 15, and October 15 in each year, ~~based upon the estimated gross amount of receipts of insurance premiums or assessments received during the immediately preceding calendar quarter. Each installment payment must equal at least 30 percent of the tax finally due for the taxable year.~~ A final payment of tax due for the year shall be made at the time the taxpayer files his return for such year. On or before March 1 in each year, an annual return shall be filed showing, ~~by quarters, the gross amount of receipts taxable for the preceding year and the installment payments made during that year.~~

(b) Any taxpayer who fails to report and timely pay any installment of tax, who estimates any installment of tax to be less than ~~90 percent of the amount required under paragraph (a) finally shown to be due in any quarter~~, or who fails to report and timely pay any tax due with the final return is in violation of this section and is subject to a penalty of 10 percent on any underpayment of taxes or delinquent taxes due and payable for that quarter or on any delinquent taxes due and payable with the final return; ~~provided, however, for purposes of this calculation credits and deductions shall not apply.~~ Any taxpayer paying, for each installment required in this section, 27 percent of the amount of the ~~total annual tax due as reported on his return for the preceding year is shall~~ not be subject to the penalty provided by this section ~~for underpayment of estimated taxes.~~

Section 25. Notwithstanding the provisions of chapter 91-197, Laws of Florida, which provide for review and repeal of chapter 550, Florida Statutes, sections 550.2635 and 550.26355, Florida Statutes, shall not stand repealed on July 1, 1992, but are repealed on July 1, 1993. If this act does not become a law by June 30, 1992, this section shall operate retroactively to that date.

Section 26. Section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under the provisions of ss. 210.15, 210.40, 561.14(6), 561.181, 561.19(2) and (3), 561.27, 561.32, 561.331, 561.422, 561.57, 561.65, 563.02, 563.025, 563.045, 564.02, 564.025, 564.041, 565.02, ~~565.025~~, 565.03, and 565.09 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. All moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the Secretary of Business Regulation, except that the revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2). The Department of Business Regulation shall review annually the balance remaining in the trust fund, and any funds found to be in excess of the needs of the division shall be transferred to the General Revenue Fund. In no event shall the department permit the fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

Section 27. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 563.02, Florida Statutes, as amended by section 7 of chapter 92-176, Laws of Florida, are amended and subsection (4) is added to that section to read:

563.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume shall pay an annual state license tax as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, \$375 ~~\$200~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, \$300 ~~\$160~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, \$225 ~~\$120~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, \$150 ~~\$80~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, \$75 ~~\$40~~.

(4) *Notwithstanding the provisions of s. 561.342, \$175 of the license fee established in paragraph (1)(b), \$140 of the license fee established in paragraph (1)(c), \$105 of the license fee established in paragraph (1)(d), \$70 of the license fee established in paragraph (1)(e), \$35 of the license fee established in paragraph (1)(f), and one-half of the above amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.*

Section 28. Section 563.025, Florida Statutes, is amended to read:

563.025 Surtax on license fees.—Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50 percent* ~~equal to 40 percent~~ of the license fee imposed by s. 563.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent*

Section 29. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 564.02, Florida Statutes, as amended by section 8 of chapter 92-176, Laws of Florida, are amended and subsection (4) is added to that section to read:

564.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor authorized to sell brewed beverages containing malt, wines, and fortified wines shall pay an annual state license tax, as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$455 ~~\$280~~

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$380 ~~\$240~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$305 ~~\$200~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$230 ~~\$160~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$155 ~~\$120~~.

(4) *Notwithstanding the provisions of s. 561.342, \$175 of the license fee established in paragraph (1)(b), \$140 of the license fee established in paragraph (1)(c), \$105 of the license fee established in paragraph (1)(d), \$70 of the license fee established in paragraph (1)(e), \$35 of the license fee established in paragraph (1)(f), and one-half of the above amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.*

Section 30. Section 564.025, Florida Statutes, is amended to read:

564.025 Surtax on license fees.—Each vendor of beverages containing alcohol of 0.5 percent or more by volume and not more than 14 percent by weight and of wines regardless of alcoholic content *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50 percent* ~~equal to 40 percent~~ of the license fee imposed by s. 564.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent of the license fee.*

Section 31. Subsections (1), (4), and (5) of section 565.02, Florida Statutes, as amended by section 9 of chapter 92-176, Laws of Florida, are amended and subsection (12) is added to that section to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(1) The following state license taxes apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(a) A vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises where sold shall pay an amount equal to 75 percent of the amount of the license tax for vendors in the same county as provided in paragraphs (b), (c), (d), (e), and (f).

(b) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$1,995 ~~\$1,820~~.

(c) A vendor operating a place of business where consumption on the premises is permitted in a county having a population over 75,000 and not over 100,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$1,700 ~~\$1,560~~.

(d) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 50,000 and not over 75,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$1,405 ~~\$1,300~~.

(e) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 25,000 and not over 50,000, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$928 ~~\$858~~.

(f) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of 25,000 or less, according to the latest population estimate prepared ~~under pursuant to~~ s. 186.901, for such county, shall pay \$659 ~~\$624~~

(g) A vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises shall pay, in addition to the license tax imposed in paragraphs (b)-(f), \$1,000. However, such permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. A golf club licenseholder may operate service bars or portable or temporary bars on the grounds contiguous to its licensed premises and shall pay \$100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and notation of such extension upon the sketch accompanying the original license application.

(4) Persons associated together as a chartered or incorporated club, including any social club incorporated by order of a circuit judge after its charter has been found to be for objects authorized by law and approved by the judge as organized for lawful purposes and not for the purpose of evading license taxes on dealers in beverages defined herein, which such organization is a bona fide club, and has been at the time of application for license hereunder in continuous active existence and operation for a period of not less than 2 years in the county where it exists, shall before serving or distributing to its members or nonresident guests the beverages defined herein, whether such service or distribution is made upon contribution to the club of money or by check or other device, pay an annual state license tax of \$505 \$400. However, any golf club operated by or on behalf of any incorporated municipality in this state, and any veterans' or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only, and such service and distribution to the members and nonresident guests shall not be deemed sales within the meaning of the law in this state; but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale, and any officer, member, or employee of any such licensed club who sells or distributes or serves any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. The holders of a golf club license may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public. For each such day of service to nonmembers, the club shall obtain from the division for a fee of \$50 an extension of its license to permit such sales. Such license extensions shall be limited to one event per year, not to exceed 8 consecutive days. Any officer of any such club which has not paid such license who knowingly permits such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided. However, this subsection does not apply to a club organized or used for the purpose of evading the payment of the license tax on vendors of such beverages; such club is subject to the payment of the license tax imposed by the Beverage Law upon vendors. The president, vice president, secretary, or treasurer, or officers of corresponding duties by any name they may be called, of any club required by this section to pay a license tax are required to see that such license tax is paid and, in default thereof, shall each be personally liable to the punishment provided by the Beverage Law for nonpayment of the license tax hereby required. Clubs which are not authorized to obtain licenses under this subsection or which do not obtain licenses under this subsection may, if they comply with this provision of the Beverage Law, obtain licenses as vendors. A club obtaining such club license shall not purchase any beverage herein defined from anyone other than a distributor or vendor licensed under the Beverage Law; nor shall such club dispense or serve any beverage defined herein unless such beverage has been purchased by such club from such licensed distributor or vendor; nor shall the club dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by that law. Such club license cannot be transferred in any manner whatsoever.

(5) A caterer at a horse or dog racetrack or jai alai fronton may obtain a license upon the payment of an annual state license tax of \$780 \$675. Such caterer's license shall permit sales only within the enclosure in which such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days after racing or jai alai under the authority of the Division of Pari-mutuel Wagering of the Department of Business Regulation is conducted at such racetrack or jai alai fronton. Except as in this subsection otherwise provided, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

(12) *Notwithstanding the provisions of s. 561.342, \$175 of the license fee established in paragraph (1)(b), \$140 of the license fee established in paragraph (1)(c), \$105 of the license fee established in paragraph (1)(d), \$70 of the license fee established in paragraph (1)(e), \$35 of the license fee established in paragraph (1)(f), three-fourths of the above amounts for licenses issued pursuant to paragraph (1)(a), \$105 of the license fee established in (4) and \$105 of the license fee established in subsection (5) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.*

Section 32. Section 565.025, Florida Statutes, is created to read:

565.025 Surtax on license fees.—Each vendor of liquor, distilled spirits, spirituous liquors, spirituous beverages, or distilled spirituous liquors and all beverages containing one-half of 1 percent or more alcohol by volume, who is licensed under this chapter, including clubs licensed under s. 565.02(4), and pari-mutuel facilities licensed under s. 565.02(5), shall pay an annual surtax in an amount equal to the percentage established, by rule, by the division. The exact percentage shall be set by rule, but may not exceed 50 percent of the license fee imposed by s. 565.02.

Section 33. Effective November 1, 1992, paragraph (j) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(j)1. Effective July 1, 1991, and until December 31, 1992, a tax is imposed at the rate of 6 percent on the charges for the use of coin-operated amusement machines. *Notwithstanding any other provision of law, beginning January 1, 1993, the amount of the tax is 3 percent and shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor is equal to the sum of 1.03, plus any applicable local option tax authorized by this part, expressed as a decimal. When a machine is activated by a slug, token, coupon, or any similar device which has been purchased, the tax is shall be on the price paid by the user of the device for such device.*

2.a. *If a coin-operated amusement machine is placed at the location of a person other than the machine owner and the receipts are shared by the machine owner and the location owner, the machine owner is deemed to be leasing the machine to the location owner. Under such an agreement, the machine owner is deemed to be the operator of the machine and is liable for remitting the tax on sales generated through use of the machine as well as remitting the tax on the portion of the receipts he receives as consideration for the lease of the machine.*

b. *If the owner of a coin-operated amusement machine leases the machine to a lessee for a fixed amount that is not based on the amount of sales generated through the machine, the owner shall collect and remit the tax on the lease of the machine from the lessee. The lessee is liable for remitting the tax on sales generated through use of the machine.*

c. *Any person who leases a coin-operated amusement machine as provided in sub-subparagraph a. or sub-subparagraph b. is exempt from payment of the sales tax on the purchase of the machine if, at the time of purchase, he provides the vendor a sales tax resale certificate.*

d. *The owner of a coin-operated amusement machine who operates the machine at his business location is liable for payment of the sales tax on the purchase of the machine as well as remitting the tax on sales generated through use of the machine.*

2. ~~As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.~~

a. ~~If the owner of the machine is also the operator of it, he shall be liable for payment of the tax without any deduction for rent or a license fee paid to a location owner for the use of any real property on which the machine is located.~~

b. ~~If the owner or lessee of the machine is also its operator, he shall be liable for payment of the tax on the purchase or lease of the machine, as well as the tax.~~

3.a. ~~An operator of~~ A coin-operated amusement machine may not ~~operate or cause to be operated in this state any such machine until the owner of the machine operator has registered with the department and has affixed an identifying device on each machine operated. The identifying device must be conspicuously displayed on the machine when it is being operated in this state. The device must bear a unique identification number issued by the department, the manufacturer's serial number of the machine, and the owner's sales tax registration number. An identifying device may not be transferred from one machine to another machine or from one owner to another owner. The identifying device must a notice to each machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his social security number. The notice must be conspicuously displayed on the machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL AMUSEMENT MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE ALL VIOLATIONS TO (TOLL-FREE TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.~~

b. ~~The owner of the machine must obtain an identifying device before the machine is first operated in the state and by January 1 of each year thereafter. The annual fee for each identifying device is \$10 and is due and payable upon application for the identifying device.~~

c. ~~An identifying device must be displayed on any coin-operated amusement machine operated in this state on or after November 1, 1992. An identifying device issued before January 1, 1993, is valid until December 31, 1993.~~

d. ~~The county tax collector may issue the identifying devices upon payment of the annual fee. The tax collector shall submit a form to the department, in a format specified by the department, which contains the name of the owner of the amusement machine, the owner's sales tax registration number, the manufacturer's serial number of the machine, and the unique identification number assigned to each identifying device issued to the owner. The tax collector may charge and retain an additional \$5 for each form submitted to the department. The tax collector shall submit payment for, and report the transmittal of, identifying devices to the department by the 15th day of each month for identifying devices issued during the previous month.~~

e.b. ~~The department shall establish a toll-free number to report any violations of this paragraph. Upon a determination that a violation has occurred, the department shall pay the informant up to 10 percent of any amount previously unpaid taxes recovered as a result of the information provided.~~

f.e. ~~A penalty of \$250 per machine is imposed on the owner operator for failing to properly obtain and display the required identifying device notice on any machine. Such penalty accrues shall accrue interest as provided for delinquent taxes under this part and applies shall apply in addition to all other applicable taxes, interest, and penalties.~~

g. ~~By April 1 of each year, the owner of a coin-operated amusement machine shall send to the department a copy of the tangible personal property return that he submitted to the county property appraiser under s. 193.052 for the current tax year.~~

h.d. ~~Owners Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the owner's operator's machines within a single county.~~

4. ~~The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.~~

5. ~~In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

6. ~~The department may adopt rules necessary to administer the provisions of this paragraph.~~

Section 34. Paragraph (b) of subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, the 2.5-percent allowance shall be reduced to 0.83 percent for all amounts in excess of \$1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. For returns remitted on or after February 1, 1992, the department shall also require that sales made through vending machines as defined in s. 212.0515 be separately shown. For returns remitted on or after February 1, 1993, sales made through coin-operated amusement machines as defined in s. 212.02 and the number of machines operated must be separately shown on the return, or a form, prescribed by the department, must be submitted which indicates the number of machines operated and the sales made through the machines.

Section 35. Paragraph (f) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this part shall be as follows:

(f) Proceeds from the fees fee imposed under ss. 212.05(1)(j)3. and pursuant to s. 212.18(3) shall remain with the General Revenue Fund.

Section 36. Effective January 1, 1993, subsection (8) is added to section 381.0072, Florida Statutes, as amended by section 4 of chapter 92-180, Laws of Florida, to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health and Rehabilitative Services to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(8) *In conducting inspections of food service establishments regulated under this section, the department shall determine if each coin-operated amusement machine that is operated on the premises of the food service establishment is properly registered with the Department of Revenue. Each month, the department shall report to the Department of Revenue the sales tax registration number of the operator of any food service establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).*

Section 37. Effective January 1, 1993, subsection (3) is added to section 500.1465, Florida Statutes, as created by section 12 of chapter 92-180, Laws of Florida, to read:

500.1465 Inspection of permitted establishments.—

(3) *In conducting inspections of establishments permitted under this chapter, the department shall determine if each coin-operated amusement machine that is operated on the premises of the establishment is properly registered with the Department of Revenue. Each month, the department shall report to the Department of Revenue the sales tax registration number of the operator of any establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).*

Section 38. Effective January 1, 1993, paragraph (f) is added to subsection (2) of section 509.032, Florida Statutes, as amended by section 22 of chapter 92-180, Laws of Florida, to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(f) *In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).*

Section 39. Effective January 1, 1993, section 561.1105, Florida Statutes, is created to read:

561.1105 Inspection of licensed premises; coin-operated amusement machines.—In conducting inspections of establishments licensed under the Beverage Law, the division shall determine if each coin-operated amusement machine that is operated on the licensed premises is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed premises that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 40. Subsection (26) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(26) *"Sea trial" means a voyage for the purpose of testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel. If the sea trial is to test repair or modification work, the owner or repair facility shall certify, in a form required by the department, what repairs have been tested. The owner and the repair facility may also be required to certify that the length and scope of the voyage were reasonably necessary to test the repairs or modifications.*

Section 41. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his permanent place of abode in, this state. ~~removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase.~~ This exemption shall not be allowed unless the seller:

a. *The purchaser removes the boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of the repairs or alterations.*

b.a.—~~Obtains from~~ The purchaser within 90 days from the date of sale provides the department with written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

c.b. ~~The seller provides to the department a copy of the sales invoice and Requires the purchaser to sign~~ an affidavit signed by the purchaser that he has read the provisions of this section; and

d.e. ~~The seller makes the affidavit a part of his permanent record for as long as required by s. 213.35.~~

~~If In the event~~ the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 20 40 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

Section 42. Paragraph (t) of subsection (7) of section 212.08, Florida Statutes, as amended by section 3 of chapter 92-113, Laws of Florida, section 1 of chapter 92-164, Laws of Florida, section 1 of chapter 92-168, Laws of Florida, and section 10 of chapter 92-173, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, pertaining to the registration of vessels, a boat upon which *the state sales or use tax has not been paid, which has not been licensed, titled, or registered in another taxing jurisdiction within the United States, or which is being used in the waters of this state under a permit issued by an agency of the United States government* is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 20 10 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 20-day 10-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility, *including the time spent on sea trials conducted by the facility*. The 20-day 10-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 20-day 10-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must *have in its possession* ~~furnish to the department~~, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat *while in the facility*. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must ~~furnish the department~~, within 72 hours after the date of release, *have in its possession with* a copy of the release form which shows the date of release and any other information the department requires. *The repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The affidavit shall be maintained by the registered repair facility as part of its records for as long as required by s. 213.35.* When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the 20-day 10-day period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this part; however, the sales tax levied under this part applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

- (I) Is located on a navigable body of water;
- (II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;
- (III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and
- (IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

- (I) Is located on a navigable body of water;
 - (II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and
 - (III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or
- c. A shoreside facility that:
- (I) Is located on a navigable body of water;
 - (II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and
 - (III) Has necessary shops and equipment to provide repairs or warranty work.

Section 43. Subsection (12) is added to section 212.06, Florida Statutes, as amended by section 2 of chapter 92-168, Laws of Florida, and section 2 of chapter 92-207, Laws of Florida, to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(12) *In lieu of any other facts which may indicate commingling, any boat which remains in this state for more than an aggregate of 183 days in any 1-year period, except as provided in subsection (8) or s. 212.08(7)(t), shall be presumed to be commingled with the general mass of property of this state.*

Section 44. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

And the title is amended as follows:

In title, on page 1, line 2 through page 7, line 22, strike all of said lines and insert: An act relating to taxation; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 154.235, F.S.; providing authority to health facilities to refund outstanding debt obligations; amending s. 193.023, F.S.; requiring the property appraiser to use sales data as the primary measure of just valuation in specified circumstances; amending s. 193.085, F.S.; providing venue for actions challenging assessed value of certain railroad property; amending s. 193.1142, F.S.; requiring the department to use sales data in determining if assessment rolls meet requirements of law; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax of the Department of Revenue to use sales data in conducting in-depth reviews of assessment rolls; requiring property appraisers to report real estate transfers to the Division of Ad Valorem Tax with specified information; requiring the property appraiser to submit information as to disqualified transactions to the Division of Ad Valorem Tax; requiring the Department of Revenue to develop a methodology for using sales data and develop a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers; amending s. 199.282, F.S.; clarifying penalties with respect to intangible personal property taxes; expanding penalties for security dealers and investment advisers; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of such taxes and severability; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; amending s. 212.05, F.S.; exempting pay telephone service from 911 assessment fees; amending s. 212.0515, F.S.; revising reporting requirements for vending machine operators and persons who sell food and beverages to vending machine operators; revising the method for calculating the tax for certain beverages; providing additional penalties; amending s. 212.055, F.S.; extending the authority of a county to levy the local government infra-

structure sales surtax for an additional period, contingent on the rejection of a specified constitutional amendment; deleting a repeal date for the indigent care surtax for some counties; repealing s. 3 of ch. 91-81, Laws of Florida; abrogating a repeal of s. 212.055(3), (4), F.S.; amending s. 212.08, F.S.; removing the requirement that the exemption for butane, propane, and other liquefied petroleum gases used for agricultural purposes inure to the taxpayer only through refund; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing an exemption from public records requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; restricting use of such information; amending s. 213.27, F.S.; allowing the Department of Revenue to contract with a collection agency to collect taxes due; removing the requirement that taxpayers be notified by certified mail and replacing with regular mail; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions beyond those provided in the appropriations acts; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; delaying the repeal of ss. 550.2635, 550.26355, F.S., relating to the Breeders' Cup Meet; amending s. 561.025, F.S.; providing for the deposit of proceeds of the surtax on beverage license fees into the Alcoholic Beverage and Tobacco Trust Fund; amending ss. 563.02, 564.02, 565.02, F.S.; increasing the license fees for vendors of alcoholic beverages sold for consumption on the premises; increasing the license fees for certain clubs and pari-mutuel facilities; providing for the disposition of increased license fees; amending ss. 563.025, 564.025, F.S.; increasing the surtax imposed on license fees for vendors of certain alcoholic beverages and wines; creating s. 565.025, F.S.; imposing a surtax on the license fees of vendors of alcoholic beverages licensed under ch. 565, F.S., including certain clubs and pari-mutuel facilities; amending s. 212.05, F.S.; revising the rate of the tax imposed on the charges for the use of coin-operated amusement machines; requiring that an identifying device issued by the department or county tax collector be affixed to each amusement machine; imposing an annual fee for such devices; providing additional reporting requirements; amending s. 212.12, F.S.; requiring taxpayers to report sales made through coin-operated amusement machines and other information; amending s. 212.20, F.S.; providing for disposition of the proceeds of the annual fee for coin-operated amusement machine identifying devices; amending ss. 381.0072, 500.1465, 509.032, F.S., and creating s. 561.1105, F.S.; requiring the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, the Division of Hotels and Restaurants of the Department of Business Regulation, and the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation, in performing inspection duties, to inspect coin-operated amusement machines for compliance with s. 212.05(1)(j), F.S.; requiring that violations be reported to the Department of Revenue; providing effective dates. amending s. 212.02, F.S.; defining "sea trial"; amending s. 212.05, F.S.; revising requirements and conditions relating to the tax exemption provided for boats and airplanes removed from the state after purchase; amending s. 212.08, F.S.; revising requirements and conditions relating to the tax exemption provided for boats temporarily docked in the state; amending s. 212.06, F.S.; providing a presumption with respect to when boats are considered commingled with the general mass of property of the state; providing effective dates.

Senator Jenne moved the following amendment:

Amendment 2 (with Title Amendment)—On page 7, line 25, insert:

Section 1. Section 199.032, Florida Statutes, is amended to read:

199.032 Levy of annual tax.—An annual tax of 2 $\frac{1}{2}$ mills is hereby imposed on each dollar of the just valuation of all intangible personal property which has a taxable situs in this state, except for notes and other obligations for the payment of money, other than bonds, which are secured by mortgage, deed of trust, or other lien upon real property situated in the state. This tax shall be assessed and collected as provided in this chapter.

Section 2. Effective December 31, 1992, subsections (2) and (4) of section 199.185, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(2)(a) With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first \$20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$40,000.

(b) With respect to the last $\frac{5}{8}$ mill of the annual tax, every natural person is entitled each year to an exemption of the first \$100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$200,000.

Agents and fiduciaries, other than guardians and custodians under a gifts-to-minors act, filing as such may not claim this exemption on behalf of their principals or beneficiaries; however, if the principal or beneficiary returns the property held by the agent or fiduciary and is a natural person, the principal or beneficiary may claim the exemption. No taxpayer shall be entitled to more than one exemption under paragraph (a) and one exemption under paragraph (b). This exemption shall not apply to that intangible personal property described in s. 199.023(1)(d).

(4) Charitable trusts, 95 percent of the income of which is paid to organizations exempt from federal income tax pursuant to s. 501(c)3 of the Internal Revenue Code, shall be exempt from $\frac{1}{8}$ mill of the tax imposed in s. 199.032.

(5) A bank or savings association, as defined in s. 220.62, is exempt from 0.5 mill of the tax imposed by s. 199.032.

Section 3. Effective December 31, 1992, subsection (3) of section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter shall be placed in a special fund designated as the "Intangible Tax Trust Fund." The fund shall be disbursed as follows:

(3) An amount equal to 33.5 $\frac{41}{3}$ percent of the remaining intangible personal property taxes collected shall be transferred to the Revenue Sharing Trust Fund for Counties. An amount equal to 66.5 $\frac{58}{7}$ percent of the remaining taxes collected shall be transferred to the General Revenue Fund of the state.

Section 4. Effective August 1, 1992, paragraph (e) of subsection (1) of section 212.05, Florida Statutes, is amended, and paragraph (k) is added to that subsection, to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(e)1. At the rate of 6 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a), *except that the tax rate for charges for nonresidential telecommunication services is 7 percent*; on all charges for any television system program service; on all charges for the installation of telecommunication and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this part, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, reconnecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(k) *At the rate of 7 percent for charges for nonresidential electric power service.*

Section 5. With respect to nonresidential telecommunication services and electric power services regularly billed on a monthly cycle basis, the sales taxes provided for in section 4 of this act apply to any bill dated on or after August 1, 1992.

Section 6. Effective August 1, 1992, paragraph (g) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this part shall be as follows:

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this part shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., the following percentages ~~9.888 percent~~ of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund:—

a. *In the 1992-1993 state fiscal year, 9.801 percent.*

b. *In the 1993-1994 state fiscal year and thereafter, 9.793 percent.*

4. Beginning July 1, 1992, of the remaining proceeds, \$166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" pursuant to s. 288.1162 and \$41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years.

5. All other proceeds shall remain with the General Revenue Fund.

Section 7. Section 607.193, Florida Statutes, is created to read:

607.193 Supplemental corporate fee.—

(1) In addition to any other taxes imposed by law, an annual supplemental corporate fee of \$120 is imposed on each corporation that is authorized to transact business in this state and required to file an annual report with the Department of State under s. 607.1622 or s. 617.1622.

(2) This section does not apply to a nonprofit corporation that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(3)(a) The corporation shall remit the supplemental corporate fee to the Department of State at the time it files the annual report required in s. 607.1622 or s. 617.1622.

(b) In addition to the fees levied under ss. 607.1622 and 617.1622 and the supplemental corporate fee, the following late charges shall be imposed if the annual report and supplemental corporate fee are remitted:

1. On or after April 1 but before May 1, \$5.

2. On or after May 1 but before June 1, \$10.

3. On or after June 1, \$15.

(4)(a) The supplemental corporate fee may not be included in computing estimated taxes under s. 212.11.

(b) The dealer's credit for collecting taxes and fees in s. 212.12 and the exemptions in chapter 212 do not apply to the supplemental corporate fee except as provided in this section.

(5) The Department of State shall adopt rules and prescribe forms necessary to carry out the purposes of this section. Notwithstanding s. 607.1901, proceeds from the supplemental corporate fee shall be deposited into the General Revenue Fund.

Section 8. Section 220.157, Florida Statutes, is created to read:

220.157 Supplemental corporate fee credit.—There is allowed a credit against the tax imposed by this chapter to all businesses required to pay the supplemental corporate fee under s. 607.193. The credit amount is equal to the amount of supplemental corporate fee paid and is allowed against taxes imposed by this chapter for the tax year in which the supplemental corporate fee is due. The credit shall be applied against the taxes imposed by this chapter after applying other allowable credits in the order specified in s. 220.02(10). Any amount of credit in excess of the fee due is not refundable or allowed as a carryover or carryback to any other tax year.

Section 9. Subsection (10) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(10) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 220.68, those enumerated in s. 631.719(1), those enumerated in s. 631.705, those enumerated in s. 220.18, those enumerated in s. 631.828, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, and those enumerated in s. 220.188, and those enumerated in s. 220.157.

Section 10. Present subsection (25) of section 607.0122, Florida Statutes, is renumbered as subsection (26), and a new subsection (25) is added to that section, to read:

607.0122 Fees for filing documents and issuing certificates.—The Department of State shall collect the following fees when the documents described in this section are delivered to the department for filing:

(25) *Supplemental corporate fee: \$120.*

Section 11. Subsections (2) and (5) of section 607.1622, Florida Statutes, are amended to read:

607.1622 Annual report for Department of State.—

(2) Proof to the satisfaction of the Department of State that on or before *June 1 July-1* such report was deposited in the United States mail in a sealed envelope, properly addressed with postage prepaid, shall be deemed compliance with this requirement.

(5) The first annual report must be delivered to the Department of State between January 1 and *June 1 July-1* of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports must be delivered to the Department of State between January 1 and *June 1 July-1* of the subsequent calendar years.

Section 12. Subsections (2) and (5) of section 617.1622, Florida Statutes, are amended to read:

617.1622 Annual report for Department of State.—

(2) The deposit of such report, on or before *June 1 July-1*, in the United States mail in a sealed envelope, properly addressed with postage prepaid, constitutes compliance with subsection (1).

(5) The first annual report must be delivered to the Department of State between January 1 and *June 1 July-1* of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to conduct affairs. Subsequent annual reports must be delivered to the Department of State between January 1 and *June 1 July-1* of the subsequent calendar years.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 7, line 23, insert: amending s. 199.032, F.S.; revising the tax rate on intangible personal property; amending s. 199.185, F.S.; revising an exemption for a specified amount of property otherwise subject to such tax; revising the exemption from the tax provided to charitable trusts; providing an exemption for banks and savings associations; amending s. 199.292, F.S.; revising the distribution of proceeds of the intangible personal property tax; amending s. 212.05, F.S.; increasing the rate of tax on nonresidential telecommunication services; imposing a tax on charges for nonresidential electric power service; providing for application of such taxes; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; creating s. 607.193, F.S.; imposing a supplemental corporate fee on corporations required to file an annual report with the Department of State; providing an exemption; providing requirements for remitting the fee; providing for late charges; providing rulemaking authority; providing for deposit of fee proceeds into the General Revenue Fund; creating s. 220.157, F.S.; providing a credit against corporate income tax liability for the supplemental corporate fee, amending s. 220.02, F.S.; providing for priority of corporate income tax credits; amending ss. 607.0122, 607.1622, 617.1622, F.S., relating to corporate filing fees and due dates for annual reports, to conform to changes made by the act;

On motion by Senator Jenne, further consideration of **CS for HB 325-H** with pending **Amendment 2** was deferred.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, June 23, 1992: CS for SB 100-H, SB 26-H, CS for SB 66-H

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Transportation recommends a committee substitute for the following: SB 248-H

The bill with committee substitute attached was referred to the Committee on Community Affairs under the original reference.

The Committee on Appropriations recommends a committee substitute for the following: SB 268-H

The bill with committee substitute attached was placed on the calendar.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Transportation and Senators Forman and Girardeau—

CS for SB 248-H—A bill to be entitled An act relating to motor vehicle inspection; amending s. 325.202, F.S.; clarifying that inspection certificates may be issued by reinspection facilities; defining the terms “reinspection facility” and “dealer certificate”; amending s. 325.203, F.S.; providing exemptions; providing for inspection of vehicles owned or leased by federal and local governments; specifying the period for which a dealer certificate is valid; amending s. 325.209, F.S.; excluding vehicles offered for retail sale from eligibility for waiver; providing a limitation on the eligibility for a waiver from inspection requirements for persons who perform their own repairs; amending s. 325.211, F.S.; deleting a requirement pertaining to when repairs must occur; amending s. 325.212, F.S.; changing the term “certified” to “licensed”; clarifying the Department of Highway Safety and Motor Vehicle’s responsibility to monitor and evaluate reinspection facilities; providing that a reinspection facility may assess a fee for the reinspection of a vehicle that was not repaired by such facility; providing a limitation on such fees; amending s. 325.213, F.S.; providing for nonrefundable fees; deleting requirement for national criminal background check; providing for payment of processing costs by the applicant; providing for imposition of civil fines on reinspection facilities and self-inspectors for violations of law or rules; amending s. 325.214, F.S.; providing an additional fee for the issuance of a dealer certificate; amending s. 325.216, F.S.; prohibiting fraudulent acts or presentation of fraudulent documentation or information and providing penalties therefor; providing an effective date.

By the Committee on Appropriations and Senator Gardner—

CS for SB 268-H—A bill to be entitled An act making supplemental appropriations, providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, other expenses, capital outlay, and other improvements and for other specified purposes of the various agencies of State government; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed HB 355-H, HB 423-H; has passed as amended HB 277-H, CS for HB 295-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Hawkins—

HB 355-H—A bill to be entitled An act relating to Collier County; amending ch. 90-465, Laws of Florida, which prohibits the taking of saltwater fish, except by hook and line, hand-held cast nets, and with no more than five (5) crab traps, in the residential man-made saltwater canals in the unincorporated area of Collier County, to define those man-made saltwater canals within Collier County subject to the jurisdiction of the act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Appropriations and Representative Gordon and others—

HB 423-H—A bill to be entitled An act relating to Medicaid clinic services; amending s. 409.908, F.S.; providing that county public health clinic services may be reimbursed a rate per visit based upon total reasonable costs of the clinic as determined by the Department of Health and Rehabilitative Services; providing conditions for implementation; providing for future repeal; authorizing the department to transfer certain funds; providing an appropriation; providing an effective date.

—was referred to the Committee on Appropriations.

By Representative Silver—

HB 277-H—A bill to be entitled An act relating to transportation; amending s. 316.1001, F.S., relating to a prohibition against using a toll facility without paying the toll; providing for the assessment of a fine against any person who fails to pay a prescribed toll; restricting the use of photographic evidence to motor vehicles using electronic toll collection lanes and electronic toll collection devices; providing for the designation of “toll enforcement officers” and for their training and qualifications; providing for the issuance of tickets by such officers and for the contents of such tickets; providing that the owner of a vehicle used to violate the section is liable for that violation; providing for the amount of fines assessed for violations of the section and for the distribution of the proceeds of such fines; authorizing the issuance of a uniform traffic citation to a vehicle owner who does not respond; providing for the admissibility into evidence of any film, videotape, or photograph produced by photographic equipment employed to enforce the section, authorizing a governmental entity to supply the department with a magnetically encoded tape or cartridge listing persons with three or more outstanding violations of the section; amending s. 316.2952, F.S.; authorizing an additional windshield attachment; amending s. 316.660, F.S.; providing for the collection and distribution of fines assessed pursuant to the section; amending s. 318.14, F.S.; exempting a traffic citation issued pursuant to the section from having to be signed; amending ss. 318.18 and 320.03, F.S., to conform; amending s. 316.0745, F.S.; requiring statewide standards for electronic toll collection systems; providing an effective date.

—was referred to the Committee on Appropriations.

By the Committee on Finance and Taxation; and Representatives Abrams and Brown—

CS for HB 295-H—A bill to be entitled An act relating to taxation; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 154.235, F.S.; authorizing health facilities authorities to refund any revenue bonds or debt obligations issued in connection with a project; providing for the use of proceeds; amending s. 193.023, F.S.; requiring property appraisers to use sales data as the primary measure of just valuation in specified circumstances; amending s. 193.085, F.S.; providing venue for actions challenging assessed value of certain railroad property; correcting a reference; amending s. 193.1142, F.S.; requiring the department to use sales data in determining if assessment rolls meet requirements of law; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax to use sales data in conducting in-depth reviews of assessment rolls; requiring property appraisers to report real estate transfers to the division with specified information; requiring property appraisers to submit information as to disqualified transactions to the division; requiring the department to develop a methodology for using sales data and a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers in connection with intangible personal property taxes; amending s. 199.282, F.S.; providing penalties for security dealers and investment advisers who do not timely file or who fail to file required statements; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of intangible personal property taxes and severability; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an

interest in real property under certain circumstances; providing for compensation; amending s. 212.0515, F.S., relating to sales from vending machines; revising the method for calculating the tax for certain beverages; revising notice requirements; revising reporting requirements for persons who sell food and beverages to vending machine operators; removing a requirement that dealers purchasing food or beverages for resale provide certain information to the dealer from whom such items are purchased; revising penalties and providing additional penalties; amending s. 212.055, F.S.; deleting the repeal date for the indigent care surtax for certain counties; repealing s. 3, ch. 91-81, Laws of Florida, which specifies the repeal date for said surtax, to conform; amending s. 213.053, F.S.; authorizing the department to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for review and repeal; restricting use of such information; amending s. 213.27, F.S.; authorizing the department to contract with collection or auditing agencies to ascertain or collect taxes due; revising the taxpayer notice requirement; amending s. 216.262, F.S.; providing an additional condition under which an increase in the number of positions beyond those provided in the appropriations acts may be authorized; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages; amending s. 200.065, F.S.; requiring 3 years of budget summaries to be available upon request and at public budget hearings; amending s. 4, ch. 92-168, Laws of Florida; providing retroactive application of the exemption from sales and use taxes granted to certain promotional materials; amending s. 212.0305, F.S.; revising language with respect to Legislative intent concerning convention development taxes; amending s. 197.432, F.S.; providing that ad valorem taxes due on governmental leaseholds become liens on such leaseholds and may be collected pursuant to chapter 197, F.S.; amending s. 365.171, F.S.; specifying that pay telephone service is not subject to assessment of fees for “911” service; amending s. 212.08, F.S.; providing for an exemption for the lease or license to use of taxicabs and related equipment; amending ss. 207.003, 207.005 and 207.026, F.S.; allowing for proration of taxes levied under part IV of chapter 206 for certain commercial motor carriers; providing for credits; providing for distribution; providing effective dates.

—was referred to the Committee on Finance, Taxation and Claims.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote, passed with amendments SB 210-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 210-H—A bill to be entitled An act relating to banks and financial institutions; reviving and readopting chs. 655, 657, 658, 660, 661, 662, 663, 664, 665, F.S., relating to the regulation of financial institutions notwithstanding the Regulatory Sunset Act; reviving and readopting ss. 657.026, 657.027, F.S., relating to credit union supervisory committees and credit committees, notwithstanding the Sundown Act; reviving and readopting ss. 655.029, 655.033, 655.057, 655.50, 663.02, 665.048, F.S., relating to records of financial institutions, notwithstanding the Open Government Sunset Review Act; amending ss. 159.602, 159.608, F.S.; authorizing a housing finance authority to own and operate a savings and loan bank; providing a purpose; providing for the reinvestment of proceeds; providing minimum capital requirements; requiring compliance with state and federal banking regulations; amending s. 655.001, F.S.; expanding the scope of the section to specify the purposes and application of the financial institutions codes rather than of ch. 655, F.S.; amending s. 655.005, F.S.; altering and adding definitions applicable to ch. 655, F.S.; amending s. 655.012, F.S., relating to general supervisory powers of the Department of Banking and Finance, to conform; creating s. 655.013, F.S.; providing for the act’s effect on existing financial institutions; creating s. 655.015, F.S.; providing for construction of the act and standards to be observed by the department; transferring, renumbering, and amending s. 655.021, F.S., relating to administrative enforcement guidelines; transferring, renumbering, and amending s. 655.025, F.S., concerning department

investigations, subpoenas, hearings, and witnesses; transferring, renumbering, and amending s. 655.029, F.S.; requiring hearings and proceedings to be public except under certain circumstances; providing for future legislative review, under the Open Government Sunset Review Act, of this exemption from public records requirements; creating s. 655.0322, F.S.; prescribing prohibited acts and practices; providing criminal penalties; amending s. 655.033, F.S.; revising the grounds upon which, and the parties against which, the department may issue a cease and desist order; revising an exemption from the public records requirements for emergency cease and desist orders; providing for future legislative review of this exemption under the Open Government Sunset Review Act; amending s. 655.034, F.S., relating to injunctions; inserting the term "members" to conform; amending s. 655.037, F.S., relating to removal of officers, directors, and others by the department; revising the list of persons that may be so removed and revising the grounds upon which such persons may be removed; revising the procedure therefor; creating s. 655.0385, F.S.; providing for the disapproval of directors and executive officers of a state financial institution by the department; creating s. 655.0386, F.S.; restricting conduct of, and transactions by, financial institution-affiliated parties; creating s. 655.0391, F.S.; providing for retention of supervision of financial institutions by the department; creating s. 655.0392, F.S.; allowing a financial institution to rent space from a governmental entity under certain circumstances; authorizing a governmental entity to rent such space at a certain rate; deleting provisions for disposition of fines; amending s. 655.041, F.S.; expanding the department's authority to impose administrative fines; amending s. 655.044, F.S.; revising record-keeping requirements; providing for recovery of certain costs; amending s. 655.045, F.S.; revising the examination authority of the department; amending s. 655.047, F.S.; clarifying the application period of assessments; allowing proration of assessments but prohibiting refunds of portions of assessments; deleting provisions for disposition of assessments; amending s. 655.049, F.S.; clarifying the types of fees that are required to be deposited into the Financial Institutions' Regulatory Trust Fund; amending s. 655.053, F.S.; revising the annual report requirements; amending s. 655.057, F.S.; revising the restrictions on public access to certain records; providing for future legislative review, under the Open Government Sunset Review Act, of these exemptions from public records requirements; amending s. 655.059, F.S.; providing certain law enforcement agencies access to a financial institution's books and records; amending s. 655.061, F.S., relating to competitive equality with federally organized or chartered financial institutions; providing for the section to take precedence over other state statutes; amending s. 655.41, F.S., relating to cross-industry conversions, mergers, consolidations, and acquisitions; replacing the term "financial institution" with the term "financial entity" with reference thereto; amending s. 655.411, F.S.; revising conversion-of-charter requirements; amending s. 655.412, F.S.; revising merger and consolidation requirements; amending s. 655.414, F.S.; revising the conditions and limitations upon which a financial entity may acquire all or substantially all the assets or liabilities of another financial entity; amending s. 655.416, F.S.; providing for the valuation of assets after an acquisition; amending s. 655.417, F.S.; conforming provisions relating to the effect of merger, consolidation, conversion, or acquisition; amending s. 655.418, F.S.; conforming provisions relating to cessation of nonconforming activities; amending s. 655.419, F.S.; clarifying the applicability of provisions for merger, consolidation, conversion, or acquisition of assets; amending s. 655.50, F.S.; revising the provisions of, and the penalties for violation of, the Florida Control of Money Laundering in Financial Institutions Act; providing for confidentiality of reports and records thereunder; providing for future legislative review, under the Open Government Sunset Review Act, of this exemption from public records requirements; extending the act's penalties to cover violations of ch. 896, F.S., or similar state or federal statutes; amending s. 655.51, F.S.; allowing financial institution regulatory agencies access to certain employment information; amending s. 655.55, F.S., relating to the law applicable to deposits in and contracts related to extensions of credit by financial institutions; replacing the term "financial institution" with the term "deposit or lending institution" and defining that term; creating s. 655.56, F.S.; providing for the collection of fines, interest, or premiums on loans made by financial institutions; creating s. 655.60, F.S.; providing for appraisals of state financial institutions, subsidiaries, or service corporations by the department; creating s. 655.762, F.S.; regulating the sale of assets by a state financial institution; creating s. 655.769, F.S.; providing definitions related to deposits in deposit or lending institutions; creating s. 655.77, F.S.; providing for deposits by minors; creating s. 655.78, F.S.; providing for deposit accounts in two or more names; creating s. 655.79, F.S.; establishing a presumption as to vesting on death when deposits and accounts are in two or more names; creating s. 655.80, F.S.; defining and establish-

ing requirements for convenience accounts; creating s. 655.81, F.S.; providing for deposits in trust; creating s. 655.83, F.S.; providing for adverse claims to deposit or fiduciary accounts; creating s. 655.84, F.S.; establishing a presumption as to correctness concerning statements of account; creating s. 655.85, F.S.; providing for settlement of checks; creating s. 655.86, F.S.; regulating the issuance of postdated checks; creating s. 655.89, F.S.; defining "legal holidays," "business days," and "transactions"; creating s. 655.90, F.S.; providing for the closing of deposit or lending institutions during emergencies and other special days; creating s. 655.91, F.S.; providing recordkeeping requirements for such institutions; creating s. 655.921, F.S.; providing for transaction of business by out-of-state financial institutions; creating s. 655.922, F.S.; prohibiting banking by unauthorized persons; providing penalties; creating s. 655.93, F.S.; providing definitions related to the leasing of safe-deposit boxes; creating s. 655.931, F.S.; authorizing financial institutions to engage in the safe-deposit business; creating s. 655.932, F.S.; authorizing the leasing of a safe-deposit box to a minor; creating s. 655.933, F.S.; providing for access to safe-deposit boxes by fiduciaries; creating s. 655.934, F.S.; specifying the effect of the death or incapacity of the lessee of a safe-deposit box; creating s. 655.935, F.S.; establishing safe-deposit search procedures on the death of the lessee; creating s. 655.936, F.S.; providing for the delivery of safe-deposit box contents or other property to a personal representative; creating s. 655.937, F.S.; providing for access to a safe-deposit box leased in two or more names; creating s. 655.938, F.S.; providing for adverse claims to the contents of a safe-deposit box; creating s. 655.939, F.S.; limiting the right of access to a safe-deposit box for failure to comply with security procedures; creating s. 655.94, F.S.; providing special remedies for the nonpayment of rent for a safe-deposit box; creating s. 655.942, F.S.; specifying standards of conduct for financial institutions; providing exceptions; creating s. 655.943, F.S.; specifying requirements for certain applications relating to financial institutions; creating s. 655.946, F.S.; providing for single interest insurance by financial institutions; requiring notice of such insurance; providing criteria for issuing such insurance; creating s. 655.949, F.S.; requiring the department to establish qualifications for certain positions in the Office of the Comptroller and in the department; requiring the Department of Banking and Finance to adopt certain rules; requiring the Comptroller to establish and implement a conflict-of-interest policy; providing guidelines; amending s. 657.002, F.S.; providing definitions; amending s. 657.004, F.S.; deleting a penalty; amending s. 657.005, F.S.; providing credit union organizational procedures and forms; creating s. 657.0061, F.S.; requiring the submission of bylaw amendments to the Department of Banking and Finance; amending s. 657.008, F.S.; authorizing armored car services and deleting the requirement that all records be kept at the principal place of business as described within the bylaws; amending s. 657.021, F.S.; defining the duties and powers of the board of directors; amending s. 657.023, F.S.; clarifying certain language; amending s. 657.026, F.S.; authorizing audit committees and defining the duties and responsibilities of these committees; amending s. 657.0265, F.S.; prescribing the liability of audit committee members; amending s. 657.027, F.S.; clarifying certain language; amending s. 657.028, F.S.; prohibiting certain persons from serving as an officer, director, or committee member; deleting provisions specifying certain unlawful activities on the part of an official, director, or employee of a credit union; deleting a penalty; amending s. 657.031, F.S.; clarifying language and deleting language requiring notice to the department concerning certain authorized activities; creating s. 657.0315, F.S.; prohibiting credit unions from entering into certain contracts; limiting the enforceability of these contracts; amending s. 657.033, F.S.; clarifying the definition of dormant accounts; amending s. 657.038, F.S.; deleting reference to an 18-percent usury cap and defining the term "related interest"; amending s. 657.039, F.S.; prescribing conditions for credit union loans to its directors, officers, and employees; defining the term "related interests"; amending s. 657.042, F.S.; increasing the allowable percentage of certain types of investments and clarifying the authority to invest in mutual funds; amending s. 657.043, F.S.; replacing the term "gross earnings" with the term "all income for the period"; modifying the definition of "risk assets" and increasing the amount of reserve amounts; amending s. 657.053, F.S.; revising the amounts of the semiannual assessments collected from credit unions; amending s. 657.055, F.S.; mandating the type and length of time certain records must be maintained; amending s. 657.062, F.S.; providing procedures for assumption of control of an insolvent credit union; amending s. 657.063, F.S.; authorizing the department to appoint a liquidator; limiting the enforceability of certain contracts; modifying procedures for involuntary liquidation; amending s. 657.064, F.S.; altering the procedures for undertaking a voluntary liquidation; amending s. 657.065, F.S.; prescribing voting requirements and procedures of a credit union merger; amending s. 657.068, F.S.; removing cer-

tain limitations on membership in a central credit union; amending s. 658.12, F.S.; providing definitions; amending s. 658.165, F.S.; correcting a cross-reference and inserting the term "financial institutions codes"; amending s. 658.20, F.S.; providing for prior approval of certain directors and executive officers of a failing bank or trust company; providing a filing fee for approval; amending s. 658.21, F.S.; altering the approval criteria of an application; amending s. 658.22, F.S.; revising requirements for coordinating state and federal applications to organize a state bank; amending s. 658.23, F.S.; requiring prior Department of Banking and Finance authorization for a change in the articles of incorporation; amending ss. 658.24, 658.25, F.S.; substituting the term "bank" for "banking corporation"; amending s. 658.26, F.S.; altering the locations where banks and trust companies may transact business; amending s. 658.27, F.S.; altering the definition of control over a bank or other business organization; amending s. 658.28, F.S.; providing an exception to the requirement that the department be given prior notice of any acquisition of voting securities; amending s. 658.29, F.S.; altering certain prohibitions concerning ownership and control of a bank or trust company; amending s. 658.30, F.S.; incorporating changes concerning the application of the Florida Business Corporation Act; deleting a limitation on certain offices that may be established within a bank; amending s. 658.32, F.S.; allowing the department to approve an annual meeting date which is not within the first 4 months of a given year; amending s. 658.33, F.S.; inserting the term "financial institutions codes"; requiring director's oath of office to be filed within 30 days of election; amending s. 658.34, F.S.; requiring shares of capital stock to be issued with a minimum par value and to be paid for in cash; amending s. 658.35, F.S.; requiring board and stockholder approval for the issuance of share options or warrants; providing for expiration of such options and warrants; amending s. 658.36, F.S.; requiring department approval for banks and trust companies to reduce outstanding common stock; amending s. 658.37, F.S.; clarifying that a stock split does not constitute a dividend; amending s. 658.38, F.S.; clarifying that a state bank must have and maintain Federal Deposit Insurance; amending s. 658.39, F.S.; restricting the right of stockholders to examine certain records; amending s. 658.40, F.S.; deleting the term "conversion"; amending s. 658.42, F.S.; providing a technical clarification; amending s. 658.43, F.S.; modifying the department's authority to issue emergency rules concerning a failing institution; amending s. 658.44, F.S., relating to approval by stockholders; revising cross-references; amending s. 658.45, F.S.; providing a technical clarification; amending s. 658.48, F.S.; altering the loan and credit authority of a state bank; amending s. 658.53, F.S.; altering limits of indebtedness; prohibiting a bank or trust company from dealing in subordinated debt; amending s. 658.60, F.S.; deleting the term "reserves"; amending s. 658.65, F.S.; altering the provisions related to remote financial service units; amending s. 658.67, F.S.; altering the investment powers of a bank and trust company; amending s. 658.68, F.S.; altering the liquidity requirements of a state bank; amending s. 658.73, F.S.; increasing examination fees and assessments; amending s. 658.79, F.S.; allowing the department to take possession of an imminently insolvent state bank or trust company; deleting the conditions for determining insolvency; amending ss. 658.80, 658.82, 658.83, F.S.; providing a technical clarification; creating s. 658.995, F.S.; creating the Credit Card Bank Act; authorizing the creation of and providing for the regulation of credit card banks by the Department of Banking and Finance; amending s. 660.25, F.S.; redefining the term "commercial department"; providing for the use of terms defined in other chapters of the Florida Statutes; creating s. 660.265, F.S.; requiring certain financial institutions to pay the costs of examination by the Department of Banking and Finance; amending s. 660.27, F.S.; deleting references to state mutual associations with respect to deposits of securities with the Treasurer; clarifying the term "bank" to include state banks and national banks; amending s. 660.33, F.S.; prescribing when an association is "affiliated" or a "successor"; correcting a cross-reference; amending s. 660.37, F.S.; deleting references to the Federal Savings and Loan Insurance Corporation; permitting the deposit of fiduciary funds in amounts exceeding insurance in specified circumstances; amending s. 660.415, F.S.; authorizing trust companies and trust departments to invest in certain common trust funds; creating s. 660.417, F.S.; authorizing the investment of fiduciary funds into a mutual fund; providing for the charging of reasonable fees associated with such mutual fund investments; amending s. 660.42, F.S.; clarifying language defining the term "trust company or trust department"; amending s. 660.44, F.S.; authorizing a bank, association, or trust company to manage common trust funds; amending s. 663.01, F.S.; providing definitions; amending s. 663.02, F.S.; expanding the applicability of domestic bank powers to international banking corporations; deleting reference to a clarification concerning branching authority of bank holding companies located outside the state; providing for future legislative

review, under the Open Government Sunset Review Act, of certain exemptions provided from public disclosure requirements; amending s. 663.03, F.S.; providing that ch. 607, F.S., regulating corporations applies to international banking corporations unless it conflicts with the banking code; amending s. 663.04, F.S.; prescribing conditions under which a license may be issued to an international banking corporation to operate an international bank agency or an international branch; deleting application fee; amending s. 663.05, F.S.; modifying the application requirements for an international banking corporation to maintain an office in this state; creating s. 663.055, F.S.; prescribing certain capital requirements as a condition of licensing; providing alternative requirements for licensing; amending s. 663.06, F.S.; expanding the permissible activities of an international banking corporation and allowing the department to prescribe by rule the procedures for surrendering a license; creating s. 663.061, F.S.; defining the permissible activities of international bank agencies; creating s. 663.062, F.S.; defining the permissible activities of an international representative office; amending s. 663.063, F.S.; altering the purposes and powers of an international administrative office; creating s. 663.064, F.S.; defining the permissible activities of an international branch; creating s. 663.065, F.S.; defining the permissible activities of a state investment company; creating s. 663.066, F.S.; authorizing, under certain conditions, the acquisition of state banks by international banking corporations; amending s. 663.07, F.S.; modifying the asset maintenance requirements of an international bank agency and international branch; amending s. 663.08, F.S.; providing for the certification of capital accounts of an international banking corporation; amending s. 663.083, F.S.; adding the term "international branch" and deleting language allowing capital debentures and notes to be treated as capital in computing capital limitations; amending s. 663.09, F.S.; providing for the consolidation of reports under certain circumstances; requiring loan documentation to be in the English language; amending s. 663.10, F.S.; modifying the provisions related to license conversion; amending s. 663.11, F.S.; replacing the term "international bank agency" with the term "office"; amending s. 663.12, F.S.; providing for filing fees, semiannual assessments, and examination fees; amending s. 663.13, F.S., relating to rule-making respecting international banking corporations; conforming a cross-reference; amending s. 663.14, F.S.; providing for the reimbursement to the Department of Banking and Finance of certain domestic travel expenses; amending s. 663.302, F.S., relating to the applicability of state banking laws to international development banks, to conform cross-references in that section to renumbering by this act; amending s. 663.309, F.S., relating to prohibited activities; deleting an obsolete cross-reference; amending s. 663.319, F.S., relating to rulemaking respecting regional development banks; conforming a cross-reference; amending s. 665.012, F.S.; altering and deleting certain definitions; creating s. 665.013, F.S.; outlining the applicability of ch. 658, F.S., to ch. 665, F.S.; amending s. 665.0211, F.S.; deleting exclusiveness-of-name provisions; amending s. 665.0315, F.S.; correcting a cross-reference and incorporating a nonrefundable filing fee; amending s. 665.033, F.S.; inserting reference to the financial institutions codes and permitting denial of an application due to the existence of a state-imposed order; increasing the fee for converting from a federal mutual to a state capital stock association and authorizing examination fees for conversions; revising a cross-reference; amending s. 665.0335, F.S.; removing the specific reference to the Federal Savings and Loan Insurance Corporation; amending s. 665.034, F.S.; changing certain requirements concerning acquisition of assets of, or control over, an association; amending s. 665.0501, F.S.; altering the general powers of an association organized under ch. 665, F.S.; amending s. 665.0711, F.S.; limiting the association's power to invest in loans; amending s. 665.074, F.S.; deleting the requirement that a settlement statement be furnished to each borrower; amending s. 665.1001, F.S.; clarifying the definition of a "foreign association"; deleting reference to the term "savings"; deleting a requirement relating to references to insurance or guaranty of accounts in advertising, solicitations, or representations; amending s. 665.1011, F.S.; deleting the term "savings and loan"; repealing s. 665.081, F.S., relating to disclosure of practices with respect to availability of funds; repealing s. 665.413, F.S., relating to acquisition of stock by a financial institution in another financial institution; repealing ch. 88-113, Laws of Florida, relating to a contingent amendment to s. 655.061, F.S.; repealing ss. 657.004, 657.029, 657.032, 657.034, 657.035, 657.036, 657.037, F.S., relating to credit unions; repealing ss. 658.1101, 658.13, 658.14, 658.15, 658.46, 658.47, 658.54, 658.55, 658.56, 658.57, 658.58, 658.59, 658.61, 658.62, 658.63, 658.64, 658.66, 658.69, 658.70, 658.71, 658.72, 658.74, 658.75, 658.76, 658.77, 658.78, 658.85, 658.86, 658.87, 658.88, 658.89, 658.91, 658.92, 658.93, 658.97, 658.98, 658.99, F.S., relating to the regulation of banks and trust companies; repealing s. 660.32, F.S., relating to the place of transacting trust business and trust company branches; repealing ss.

661.45-661.55, F.S., relating to regulating the safe-deposit business, in accordance with the Regulatory Sunset Act; repealing ss. 662.01-662.08, F.S., relating to bank service corporations, in accordance with the Regulatory Sunset Act; repealing ss. 664.01-664.12, F.S., relating to industrial savings banks, in accordance with the Regulatory Sunset Act; repealing ss. 665.011, 665.0201, 665.022, 665.023, 665.024, 665.025, 665.027, 665.028, 665.0301, 665.0311, 665.038, 665.0401, 665.044, 665.045, 665.047, 665.048, 665.0601, 665.0611, 665.062, 665.063, 665.064, 665.065, 665.066, 665.067, 665.068, 665.069, 665.0701, 665.0731, 665.076, 665.077, 665.0801, 665.082, 665.083, 665.093, 665.096, 665.097, 665.099, 665.102, 665.1021, 665.103, 665.104, F.S., relating to the regulation of savings associations; amending s. 154.238, F.S., relating to the authority of a health facilities authority to deal with a bank that employs a member of the authority, to conform terminology to that used in this act; amending s. 159.414, F.S., relating to the authority of a board of a local agency, under the Florida Industrial Development Financing Act, to deal with a bank that employs a board member, to conform terminology to that used in this act; amending s. 159.494, F.S., relating to the authority of an industrial development authority to deal with a bank that employs a member of the authority; amending s. 240.488, F.S., relating to the investment of funds of a county education loan authority, to conform terminology to that used in this act; amending s. 288.753, F.S., relating to examination of the Florida Export Finance Corporation by the Department of Banking and Finance, to conform terminology to that used in this act; amending s. 289.121, F.S., relating to examination of the Florida Industrial Development Corporation, to conform terminology to that used in this act; amending s. 420.141, F.S., relating to examination of the Housing Development Corporation of Florida, to conform terminology to that used in this act; amending s. 538.03, F.S., relating to definitions applicable to secondhand dealers, to conform a cross-reference made obsolete by this act; amending s. 607.0501, F.S., relating to registered offices and agents of corporations, to conform terminology to that used in this act; amending s. 627.826, F.S., relating to insurance premium finance companies, to delete a cross-reference to a law repealed by this act; amending s. 671.304, F.S., relating to laws not repealed by the enactment of the Uniform Commercial Code, to delete cross-references to laws repealed by this act; amending s. 687.12, F.S., relating to interest rates of licensed lenders and creditors, to revise a cross-reference to a law repealed by this act; amending s. 896.101, F.S., relating to the conduct of financial transactions involving the proceeds of unlawful activity, revising a definition to conform with this act; creating a community bank pilot program; authorizing the investment of specified state funds; providing for the selection of participating financial institutions; requiring matching funds; requiring the establishment of guidelines for the pilot program; requiring an annual report; amending s. 494.0019, F.S.; clarifying the issue of liability in the case of an unlawful mortgage transaction; amending s. 494.006, F.S.; exempting insurance companies from ss. 494.006-494.0077, F.S.; transferring, renumbering, and amending s. 658.50, F.S., relating to loans or extensions of credit; improving clarity; amending s. 658.84, F.S.; prohibiting the enforcement of certain judicial actions; providing priorities for payment of unsecured claims against a financial institution; amending s. 660.41, F.S.; revising powers of corporations other than banks, associations, and trust companies with respect to fiduciary functions; amending s. 697.04, F.S.; providing for a secured interest on a future advance when related to an interest in a leasehold upon real property; providing for severability; providing an effective date.

House Amendment 1—On page 22, line 30, strike “bank” and insert: *association*

House Amendment 2—On page 135, line 12, strike all of said line and insert: Comptroller shall promulgate rules regarding conflict of interest for

House Amendment 3—On page 135, lines 19 and 21, and page 136, line 2, strike “policy” and insert: *rules*

House Amendment 4 (with Title Amendment)—On page 394, between lines 12 and 13, insert:

Section 216. Notwithstanding the October 1, 1992, repeal specified in section 119.14(3)(a), Florida Statutes, section 655.057, Florida Statutes, is reenacted and amended to read:

655.057 Records; limited restrictions upon public access.—

(2)(g) *Examination, operation, or condition reports of a financial institution shall be released by the department within 1 year after the appointment of a liquidator, receiver, or conservator to such financial institution. However, any portion of such reports which discloses the*

identities of depositors, bondholders, members, borrowers, or stockholders, other than directors, officers or controlling stockholders of the institution, shall remain confidential and exempt from the provisions of s. 119.07(1).

Section 217. Paragraph (b) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and examination of records; exemptions.—

(3)(a) All public records which are presently provided by law to be confidential or which are prohibited from being inspected by the public, whether by general or special law, are exempt from the provisions of subsection (1).

(b) All public records referred to in s.624.319(3) and (4), are exempt from the provisions of subsection (1).

Section 218. Section 655.948, Florida Statutes, is created to read:

655.948 Significant events; notice required.—

(1) Unless exempted by the department pursuant to subsection (4), every financial institution shall notify the department of the occurrence of any of the events listed in subsection (2) by filing with the department a disclosure in a form to be specified by the department. The form shall include the number and caption of all applicable events, along with a summary of each. Completed forms shall be certified for authenticity and accuracy by the chief executive officer of the financial institution.

(2) Events for which disclosure forms must be filed and the filing schedule for each are as follows:

(a) To be disclosed within 30 days of the occurrence of the event:

1. The addition, resignation, or termination of a director, executive officer, independent internal auditor, or independent credit review officer;

2. The acquisition or disposition of an asset or assets the value of which exceeds 10 percent of capital as of the date of the most recent call report, excluding securities guaranteed by the Federal Government;

3. Any change in general counsel or outside auditors who are used to certify financial statements;

4. Any interruption of fidelity insurance coverage;

5. Any credit extension to an executive officer and his related interests that, when aggregated with the amount of all other extensions of credit to that executive officer and his related interests, exceeds 15 percent of the capital accounts of the financial institution;

6. The failure to meet the minimum daily liquidity required of s. 658.68; or

7. Any fraudulent act perpetrated against a financial institution. However, no liability shall be incurred by any financial institution as a result of making a good faith effort to fulfill this disclosure requirement.

(b) Every financial institution shall notify the department within 30 days of the existence of any asset which is defined as a nonaccrual asset and which is in excess of 15 percent of total assets.

(3) A financial institution which fails to file a disclosure form shall be subject to the fines provided in s. 655.041.

(4)(a) The department will exempt a financial institution from any of the provisions of this section if the department determines that such financial institution is operating in a safe and sound manner. The department, prior to granting any such exemption, shall adopt rules defining the term “safe and sound” and explicitly stating the criteria which shall constitute operating in a safe and sound manner.

(b) Notwithstanding this section, all newly chartered financial institutions and financial institution which have changed ownership which is not a merger, consolidation or acquisition by an institution exempted in (a), shall be subject to these provisions for 3 years.

Section 219. Section 655.019, Florida Statutes, is created to read:

655.019 Campaign contributions; limitations.—

(1) Notwithstanding the limits provided in s. 106.08, no financial institution which is licensed or otherwise authorized to do business pur-

suant to chapters 655-665, Florida Statutes, nor an officer, executive officer, affiliate, subsidiary or service corporation of a financial institution that is licensed or otherwise authorized to do business pursuant to chapters 655-665, Florida Statutes, and no political committee or committee of continuous existence representing the interests of such financial institution shall make a contribution in excess of \$100, for any election, to or on behalf of the Comptroller or any candidate for the office of Comptroller. The provisions of this subsection shall not prevent any candidate or members of that candidate's immediate family from contributing to that candidate's campaign as otherwise permitted by law.

(2) The Comptroller or candidate for the office of Comptroller may not accept a campaign contribution in excess of \$100 from any financial institution which is licensed or otherwise authorized to do business pursuant to chapters 655-665, Florida Statutes, or an officer, executive officer, affiliate, subsidiary or service corporation of such financial institution, or any political committee or committee of continuous existence that represents that financial institution.

(3) No employee of the department may solicit a campaign contribution for the Comptroller or any candidate for the office of the Comptroller from any person who is licensed or otherwise authorized to do business by the department or who has an application pending for licensure or other authorization to do business pending with the department, or any director, officer, employee, agent, retained legal counsel, lobbyist, or partner or affiliate of that person or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the department or the Comptroller's office holding a position in the Senior Management Service as defined in s. 110.042; any person holding a position in the Select Exempt Service as defined in s. 110.602; any person having authority over institution policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

(4) Any person who knowingly and willfully commits a violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 774.082 or s. 775.083, Florida Statutes.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 21, line 18, after "property," insert: amending s. 655.057, F.S.; revising the exemptions; amending s. 119.07, F.S.; correcting references and deleting duplicative references; creating s. 655.948, F.S.; requiring notice of certain specified events; creating s. 655.019, F.S.; limiting certain campaign activities;

Senator Kiser moved the following amendment to **House Amendment 4** which failed:

Senate Amendment 1 to House Amendment 4—On page 5, between lines 18 and 19, insert:

Section 216. There is hereby created the Florida Commission on Financial Institutions to regulate financial institutions within the state.

(1) The commission is comprised of three members appointed by the Governor and confirmed by the Senate to serve for 4-year staggered terms. The commission shall select annually one of its members to serve as chairperson. The members shall not be compensated, but shall be entitled to per diem and be reimbursed for travel expenses in accordance with s. 112.061.

(a) The commission shall be assigned to the Department of Business Regulation. The commission, in the performance of its duties, shall not be subject to the control, supervision, or direction by the Department of Business Regulation.

(b) The commission shall appoint an executive director to manage the day-to-day operations of the commission. The executive director may employ personnel as may be necessary to perform the functions of the commission, within budgetary limitations.

(2) The commission shall regulate banking institutions in accordance with the provisions of the "Florida Institutions Codes" as established in chapters 655, 657, 658, 660, 663, and 665.

Section 217. The Division of Banking of the Department of Banking and Finance, and all personnel, duties, responsibilities, activities, programs, and functions of the division shall be transferred by a type three transfer to the Commission on Financial Institutions.

Section 218. The Senate Commerce Committee shall prepare a bill to revise the statutes to provide for the regulation of banking by the commission created in this act, and shall submit such legislation for adoption by the Legislature prior to the effective date of this act.

Section 219. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 220. Except for sections 216-218, which shall take effect June 30, 1993, this act shall take effect upon becoming law.

On motions by Senator Childers, the Senate concurred in the House amendments.

SB 210-H passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—4

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote and passed CS for SB 196-H; has passed SB 112-H and SB 114-H.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ROLL CALLS ON SENATE BILLS

SJR 2-H

Yeas—36

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|-----------------|-------------|-------------|-----------|
| Madam President | Davis | Jennings | Myers |
| Bankhead | Diaz-Balart | Johnson | Scott |
| Bruner | Dudley | Kirkpatrick | Souto |
| Burt | Forman | Kiser | Thomas |
| Casas | Gardner | Kurth | Walker |
| Childers | Girardeau | Langley | Weinstein |
| Crenshaw | Grant | Malchon | Weinstock |
| Crotty | Grizzle | McKay | Wexler |
| Dantzler | Jenne | Meek | Yancey |

Nays—None

Vote after roll call:

Yea—Beard, Plummer

SB 26-H

Yeas—36

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|-----------------|-------------|-------------|-----------|
| Madam President | Dantzler | Jennings | Myers |
| Bankhead | Diaz-Balart | Johnson | Plummer |
| Beard | Dudley | Kirkpatrick | Scott |
| Bruner | Forman | Kiser | Souto |
| Burt | Gardner | Kurth | Walker |
| Casas | Girardeau | Langley | Weinstein |
| Childers | Grant | Malchon | Weinstock |
| Crenshaw | Grizzle | McKay | Wexler |
| Crotty | Jenne | Meek | Yancey |

Nays—1

Davis

SB 210-H

Yeas—34

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|-----------------|----------|----------|-----------|
| Madam President | Burt | Dantzler | Gardner |
| Bankhead | Childers | Davis | Girardeau |
| Beard | Crenshaw | Dudley | Grant |
| Bruner | Crotty | Forman | Grizzle |

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|-------------|---------|--------|-----------|
| Jenne | Kurth | Myers | Weinstock |
| Jennings | Langley | Scott | Wexler |
| Johnson | Malchon | Souto | Yancey |
| Kirkpatrick | McKay | Thomas | |
| Kiser | Meek | Walker | |

Vote after roll call:

Nay to Yea—McKay

CS for SB 268-H—Amendment 15

Nays—4

Yeas—11

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| Casas | Diaz-Balart | Plummer | Weinstein |
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Vote after roll call:

Yea to Nay—Souto

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| Madam President | Girardeau | Malchon | Weinstock |
| Davis | Jenne | Meek | Wexler |
| Forman | Kurth | Weinstein | |

CS for SB 268-H—Amendment 2

Nays—22

Yeas—10

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| Madam President | Girardeau | Malchon | Weinstock |
| Davis | Jenne | Meek | |
| Forman | Kurth | Thomas | |

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| Bankhead | Dantzler | Johnson | Plummer |
| Beard | Dudley | Kirkpatrick | Souto |
| Bruner | Gardner | Kiser | Walker |
| Childers | Grant | Langley | Yancey |
| Crenshaw | Grizzle | McKay | |
| Crotty | Jennings | Myers | |

Nays—20

Vote after roll call:

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|----------|----------|-------------|--------|
| Bankhead | Crotty | Jennings | Myers |
| Beard | Dantzler | Johnson | Souto |
| Bruner | Dudley | Kirkpatrick | Walker |
| Burt | Grant | Langley | Wexler |
| Crenshaw | Grizzle | McKay | Yancey |

Nay to Yea—McKay

CS for SB 268-H—Amendment 16**CS for SB 268-H—Amendment 3**

Yeas—11

Yeas—14

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| Bankhead | Crenshaw | Girardeau | McKay |
| Beard | Crotty | Grant | Walker |
| Bruner | Dantzler | Jennings | |
| Burt | Davis | Langley | |

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| Madam President | Girardeau | Malchon | Weinstock |
| Davis | Jenne | Meek | Wexler |
| Forman | Kurth | Weinstein | |

Nays—21

Nays—23

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|-----------------|---------|---------|-----------|
| Madam President | Gardner | Malchon | Thomas |
| Casas | Grizzle | Meek | Weinstein |
| Childers | Jenne | Myers | Weinstock |
| Diaz-Balart | Johnson | Plummer | Wexler |
| Dudley | Kiser | Scott | Yancey |
| Forman | Kurth | Souto | |

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|----------|----------|-------------|--------|
| Bankhead | Dantzler | Johnson | Souto |
| Beard | Dudley | Kirkpatrick | Walker |
| Bruner | Gardner | Kiser | Yancey |
| Childers | Grant | McKay | |
| Crenshaw | Grizzle | Myers | |
| Crotty | Jennings | Plummer | |

Vote after roll call:

Nay to Yea—McKay

CS for SB 268-H—Amendment 13**CS for SB 268-H—Amendment 17**

Yeas—15

Yeas—12

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|-----------------|-----------|---------|-----------|
| Madam President | Girardeau | Meek | Weinstein |
| Childers | Jenne | Plummer | Weinstock |
| Davis | Kurth | Thomas | Wexler |
| Forman | Malchon | Walker | |

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|-----------------|-----------|---------|-----------|
| Madam President | Girardeau | Malchon | Weinstein |
| Davis | Jenne | McKay | Weinstock |
| Forman | Kurth | Meek | Wexler |

Nays—22

Nays—19

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|----------|-------------|-------------|--------|
| Bankhead | Dantzler | Jennings | Myers |
| Beard | Diaz-Balart | Johnson | Scott |
| Bruner | Dudley | Kirkpatrick | Souto |
| Burt | Gardner | Kiser | Yancey |
| Crenshaw | Grant | Langley | |
| Crotty | Grizzle | McKay | |

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| Bankhead | Dantzler | Jennings | Plummer |
| Beard | Dudley | Johnson | Souto |
| Bruner | Gardner | Kirkpatrick | Walker |
| Childers | Grant | Kiser | Yancey |
| Crotty | Grizzle | Myers | |

Vote after roll call:

Nay to Yea—Scott

CS for SB 268-H—Amendment 14**ROLL CALLS ON HOUSE BILLS****HB 21-H—Motion**

Yeas—13

Yeas—16

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| Madam President | Girardeau | Meek | Wexler |
| Childers | Jenne | Thomas | |
| Davis | Kurth | Weinstein | |
| Forman | Malchon | Weinstock | |

| | | | |
|-----------------|-------------|---------|-----------|
| Madam President | Gardner | Malchon | Walker |
| Casas | Girardeau | Meek | Weinstock |
| Diaz-Balart | Kirkpatrick | Souto | Wexler |
| Forman | Kurth | Thomas | Yancey |

Nays—20

Nays—16

| | | | |
|----------|----------|-------------|---------|
| Bankhead | Dantzler | Jennings | McKay |
| Beard | Dudley | Johnson | Myers |
| Bruner | Gardner | Kirkpatrick | Plummer |
| Crenshaw | Grant | Kiser | Walker |
| Crotty | Grizzle | Langley | Yancey |

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| Bankhead | Crenshaw | Grant | McKay |
| Beard | Crotty | Grizzle | Myers |
| Bruner | Dantzler | Johnson | Scott |
| Burt | Dudley | Langley | Weinstein |

CS for HB 57-H

Yeas—33

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| Madam President | Davis | Kirkpatrick | Thomas |
| Bankhead | Diaz-Balart | Kiser | Walker |
| Beard | Dudley | Kurth | Weinstein |
| Bruner | Forman | Langley | Weinstock |
| Burt | Gardner | Malchon | Wexler |
| Casas | Grant | McKay | Yancey |
| Childers | Grizzle | Meek | |
| Crotty | Jenne | Scott | |
| Dantzler | Jennings | Souto | |

Nays—None

HB 145-H

Yeas—36

| | | | |
|-----------------|-------------|-------------|-----------|
| Madam President | Dantzler | Jenne | Meek |
| Bankhead | Davis | Jennings | Myers |
| Beard | Diaz-Balart | Johnson | Scott |
| Bruner | Dudley | Kirkpatrick | Souto |
| Burt | Forman | Kiser | Walker |
| Casas | Gardner | Kurth | Weinstein |
| Childers | Girardeau | Langley | Weinstock |
| Crenshaw | Grant | Malchon | Wexler |
| Crotty | Grizzle | McKay | Yancey |

Nays—None

CS for HB's 197-H, 19-H and 131-H

Yeas—38

| | | | |
|-----------------|-------------|-------------|-----------|
| Madam President | Davis | Johnson | Scott |
| Bankhead | Diaz-Balart | Kirkpatrick | Souto |
| Beard | Dudley | Kiser | Thomas |
| Bruner | Forman | Kurth | Walker |
| Burt | Gardner | Langley | Weinstein |
| Casas | Girardeau | Malchon | Weinstock |
| Childers | Grant | McKay | Wexler |
| Crenshaw | Grizzle | Meek | Yancey |
| Crotty | Jenne | Myers | |
| Dantzler | Jennings | Plummer | |

Nays—None

ENROLLING REPORTS

SB 152-H, SB 266-H and CS for SB 48-H have been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 23, 1992.

Joe Brown, Secretary

RECESS

On motion by Senator Thomas, the Senate recessed at 9:07 p.m. to reconvene at 10:00 a.m., Wednesday, June 24.